



CAYMAN ISLANDS LEGISLATIVE ASSEMBLY

OFFICIAL HANSARD REPORT

2002 SESSION

(15 February 2002 — 10 February 2003)

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

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CAYMAN ISLANDS LEGISLATIVE ASSEMBLY

OFFICIAL MEMBERS AND MINISTERS

Hon. Julianna Y. O'Connor-Connolly, JP

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

Hon. James M. Ryan, MBE, JP

First Official Member responsible for
Internal and External Affairs

Hon. David F. Ballantyne

Second Official Member responsible for
Legal Administration

Hon. George A. McCarthy, OBE, JP

Third Official Member responsible for
Finance and Economic Development

Hon. W. McKeeva Bush, OBE, JP

Leader of Government Business
Elected Minister responsible for Tourism,
Environment, Development and Commerce

Hon. Linford A. Pierson, OBE, JP

Deputy Leader of Government Business
Elected Minister responsible for Planning,
Communications, Works and Information Technology

Hon. Roy Bodden, JP

Elected Minister responsible for Education, Human
Resources and Culture

Hon. Gilbert A. McLean

Elected Minister responsible for Health Services,
District Administration and Agriculture

Dr. the Hon. Frank S. McField

Elected Minister responsible for Community
Services, Women Affairs, Youth and Sports

ELECTED MEMBERS

Mr. Rolston M. Anglin

Second Elected Member for the Electoral
District of West Bay

Capt. A. Eugene Ebanks

Third Elected Member for the Electoral
District of West Bay

Mr. Cline A. Glidden, Jr.

Deputy Speaker
Fourth Elected Member for the Electoral
District of West Bay

Mr. D. Kurt Tibbetts, JP

First Elected Member for the Electoral
District of George Town

Mr. Alden M. McLaughlin, Jr.

Second Elected Member for the Electoral
District of George Town

Mr. Lyndon L. Martin

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

Mr. Anthony S. Eden, OBE, JP

Third Elected Member for the Electoral
District of Bodden Town

Mrs. Edna M. Moyle, JP

Elected Member for the Electoral
District of North Side

Mr. V. Arden McLean

Elected Member for the Electoral
District of East End

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Abbreviations: (1r), (2r), (3r), first, second, third reading; (A) Amendment; **BT**, Bodden Town; (C), Committee; **CAL**, Cayman Airways, Ltd.; **CDB**, Caribbean Development Bank; **C&W**, Cable & Wireless (CI) Ltd.; **CUC**, Caribbean Utilities Co. Ltd.; **DOE**, Department of Environment; **DOT**, Department of Tourism; **EE**, East End; **EU**, European Union; **FATF**, Financial Action Task Force; **FRU**, Financial Reporting Unit; **GHHS**, George Hicks High School; **GM**, Government Motion; **GT**, George Town; **ICCI**, International College of the Cayman Islands; **JGHS**, John Gray High School; **PPM**, People's Progressive Movement; **PMM**, Private Member's Motion; **OECD**, Organisation for Economic Co-operation and Development; **PWD**, Public Works Department; (R), Report; **SO**, Standing Order; **UDP**, United Democratic Party.

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OFFICIAL HANSARD REPORT
STATE OPENING AND FIRST MEETING
FRIDAY
15 FEBRUARY 2002
9.42 AM
First Sitting

The Speaker: I shall now call upon the Reverend Joseph Crawford to say Prayers.

PRAYERS

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

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

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

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

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

Proceedings resumed at 9.42 am

The Speaker: Please be seated. Proclamation.

PROCLAMATION NO. 2 OF 2002

The Clerk: Proclamation No. 2 of 2002 by His Excellency, Peter John Smith, Commander of the Most Excellent Order of the British Empire, Governor of the Cayman Islands.

"WHEREAS section 46 (1) of the Constitution of the Cayman Islands provides that the sessions of the Legislative Assembly of the Cayman

Islands shall be held at such places and begin at such times as the Governor may from time to time by Proclamation appoint:

"NOW THEREFORE, I, Peter John Smith, Governor of the Cayman Islands, by virtue of the powers conferred upon me by the said section 46 (1) of the Constitution of the Cayman Islands, HEREBY PROCLAIM that a session of the Legislative Assembly of the Cayman Islands shall be held at the Legislative Assembly Building in George Town on the Island of Grand Cayman beginning at 10.00 am on Friday, the 15th day of February, 2002.

"GIVEN UNDER MY HAND AND THE PUBLIC SEAL OF THE CAYMAN ISLANDS AT GEORGETOWN IN THE ISLAND OF GRAND CAYMAN, ON THIS 4TH DAY OF FEBRUARY IN THE YEAR OF OUR LORD, TWO THOUSAND AND TWO, IN THE FIFTIETH YEAR OF THE REIGN OF HER MAJESTY QUEEN ELIZABETH II"

The Speaker: The Honourable Leader, Minister responsible for Tourism, Environment, Development and Commerce, would you please move the Motion for the suspension of the House?

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

Hon. W. McKeeva Bush: Madam Speaker, I move that this Honourable House do rise to await the arrival of His Excellency the Governor and reassemble on his arrival to receive a gracious message from the Throne.

The Speaker: Thank you, Honourable Leader.

The Question is that this House do rise to await the arrival of His Excellency, the Governor and reassemble on his arrival to receive the gracious message from the Throne.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: That this House do rise to await His Excellency, the Governor and reassemble on his arrival to receive a gracious message from the Throne.

Proceedings suspended at 9.54 am

(The Governor's Aide-de-Camp gave three knocks on the door at 9.56 am. Procession enters)

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

Procession:

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

Proceedings resumed at 10 am

INVITATION BY THE SPEAKER

The Speaker: Your Excellency, it is my pleasure to invite you to address our Honourable House with the gracious Throne Speech.

THE THRONE SPEECH

Delivered by

**His Excellency the Governor,
Mr. Peter John Smith, CBE**

Honourable Speaker, Honourable Members of the Legislative Assembly, it is with a sense of great honour, respect and humility that I present, again, the Speech from the Throne.

I would crave for indulgence from you just in case my voice falls apart. I am much under par today but because of those aspects of honour and respect to which I just alluded, I wish to do this myself today.

We have lived through a difficult and troublesome year, which has caused the world at large, not just Cayman, to take stock, to reflect and to move ahead a little more cautiously but a little more wisely. The impact of globalization, for better or for worse, has been brought home to us all. We now know, if we did not know before, that we are not immune from externally produced events, and indeed we are inextricably linked to the wider world.

However, I believe that overall Cayman will emerge stronger and wiser, and that lessons have been learned. We know that those who ignore history are condemned to repeat it.

Indeed, it is an exciting time for those like me who have a tendency towards optimism. The Constitutional Review Commissioners are shortly to present me with their Report and a draft modernised Constitution. I thank them publicly now for the professionalism and dedication that they have brought to this historic task. The Governance of these Islands could have a different complexion by next year. What a year for change 2003 will be! The 500th anniversary of these

Islands gives us a golden opportunity, as the slogan says, to "Celebrate Cayman" and to ensure that we reflect on the past, evaluate the present and plan for the future.

You will hear references today to growth management, essential if we are to progress and develop in a balanced way; references also to e-business and a burgeoning number of websites as Cayman positions herself for the future. There are references to Vision 2008 showing that the spirit of the National Strategic Plan is alive and well across the Ministries and Portfolios. The public and private sector partnership that we hear so much about will be formalised in a National Advisory Council, and I pray that it will be allowed and encouraged to be effective.

Finally, I should like to thank the private sector for participating so closely in the efficiency scrutiny exercise of the Public Service that has just started. This exercise will continue as a rolling programme and will leave the Government machine in better shape to deliver those services that it is best equipped to deliver.

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

THE JUDICIARY

Legislation is presently being prepared for the establishment of Drug Courts to deal with those who commit offences because of their addiction and who are serious about overcoming their addiction. It will offer an alternative to imprisonment and will hopefully deter the commission of further offences.

Facilities are now in place to enable multiple users to view evidence documents on multiple screens in the Courtroom. Court reporters are now using real-time reporting, enabling judges, and eventually lawyers, to enjoy the advantage of viewing an immediate and ongoing record of Court proceedings.

The new Cost Rules, which came into effect on the 1 January 2002, promise greater recovery of costs for successful litigants. The Court's power to make appropriate orders as to costs can deter litigants from behaving improperly or unreasonably.

Progression of plans for a new Court building to house Summary Court in all its divisions: Criminal, Civil, Family, Youth, Coroners and Drug Court remains an urgent need.

PORTFOLIO OF INTERNAL & EXTERNAL AFFAIRS

The Portfolio of Internal and External Affairs will focus its attention on the much-needed Immigration reforms. The recently introduced machine-readable equipment for passports will be upgraded and passports will be produced in digitized form. This will allow Cayman Islands' passports to comply with international requirements and standards and will also

prepare us to issue the new British Citizen passports in the future.

Royal Cayman Islands Police (RCIP) Service

The Royal Cayman Islands Police (RCIP) Service has a newly formed Joint Intelligence and Crime Management Unit which has improved the information flow both within the RCIP and between the other law enforcement agencies and should permit more effective deployment of scarce resources.

New computerised fingerprinting technology to be implemented this year will greatly reduce processing time, enabling the police to apprehend criminals more speedily.

The Police K-9 Section will be enhanced by an increase of 6 dogs, plus training, dog accommodation and other expenses donated by the Good Government Fund from the UK. The Drug Abuse Resistance Education (DARE) programme is extended to all public schools on the Island this year.

Frontline policing will be strengthened by the recruitment of Auxiliary Constables to release trained officers for operational duty. Additional recruitment of Special Constables will provide a more visible police presence at the community level.

Legislative Assembly

The Legislative Department will be pursuing the implementation of the Assembly's web-casts whose long-term objectives will be to provide video coverage of all House proceedings; to broadcast streaming video and audio over the Internet and archived video for downloading and viewing; to provide web access to proceedings; to build a web-based archive of Laws and Hansard Reports; and to build an online store to sell the Laws of the Cayman Islands and Hansard Reports of Parliament.

Personnel Department

Emphasis will be placed this year on improving the Human Resources IRIS database for personnel administration purposes to ensure that data and statistics are accurate and appropriate.

The Department will assist with the implementation, overview and monitoring of the administration of Government's provision of medical benefits to entitled persons.

Government Information Services (GIS)

Emphasis will be placed this year on training civil servants as departmental press officers, while strengthening media-relations skills among top civil servants.

The weekly GIS television programme will be re-instituted with more news and current affairs content. The video technology and manpower of the unit is being strengthened with the return later this year of

a Caymanian staffer from the European Film College in Denmark with advanced qualifications.

PORTFOLIO OF LEGAL AFFAIRS

The Government's legislative programme includes social, financial, criminal, health and Merchant Shipping Legislation. The revision of the Cayman Islands Laws has been substantially completed and Laws will continue to be revised as appropriate.

Civil and Criminal Crown Council have been recruited to maintain and augment the work of the Courts and provision of legal advice to Government. An improved environment is being created to facilitate international requests for legal assistance.

There will be increased emphasis on upholding the interests of justice and its administration.

PORTFOLIO OF FINANCE AND ECONOMIC DEVELOPMENT

The Portfolio of Finance and Economics has set the following key objectives for 2002:

- ◆ Development and implementation of new Public Management and Finance Regulations to support the new law.
- ◆ Implementation of a debt restructuring package for Central Government debt.
- ◆ Full independence for the Shipping Registry and the Monetary Authority.
- ◆ Implementation of a refined approach to risk management issues in government.
- ◆ Continue development of a public sector investment programme for 2003 to 2005 and production of regular economic reviews.
- ◆ Publication of the 2001 statistical series and national income and labour force surveys.
- ◆ Collaboration with the private sector to secure access to new markets for financial services and maintenance of a proactive approach to international and domestic regulatory issues.

Customs

The Customs Department will work in collaboration with the RCIP and Prison Services in an attempt to further combat the illicit drug problem. The department has embarked on the joint K-9 project with the acquisition of three additional dogs and a 12-week training programme should be completed during the first quarter of 2002.

Treasury

Treasury is preparing an Integrated Resource Information System (IRIS) for the requirements of the Public Management and Finance Law 2001 (PMF Law). These changes will enable the new Multi-Organizational IRIS system, including modules for

Purchasing, Inventory and Fixed Assets, to be ready for operation next January.

Statistics Office

The Statistics Office has reintroduced its Quarterly Statistical Bulletin and has been involved in data collection exercises aimed at monitoring the effect of concessions granted to the real estate sector. The Office will conduct two Labour Force Surveys this year.

General Registry and Shipping

The **General Registry** will focus on enhancing its private sector interface system to improve efficiency, integrity and depth in the information accessible at cost to its customers.

The **Shipping Registry** is scheduled to become a statutory authority, necessitating significant development, especially in the areas of automated billing and accrual based accounting. Development of the Registry's website will increase efficiency through automation and advance business development.

During 2002, it is proposed to submit some forty new regulations under the Merchant Shipping Law and the Merchant Shipping Marine Pollution Law, to give local effect to a range of developments in International Shipping Conventions that apply in the Cayman Islands.

The Registry will complete the preparation work necessary to achieve compliance to the International Safety Organisation (ISO) 9000/2000, a broader based standard than the ISO 9002 to which it is currently certified.

Budget and Management Unit

The Budget and Management Unit will implement the new budgeting and monitoring system as part of the Financial Management Initiative and review its organization and staffing to prepare for the new roles emanating from the Public Management and Finance Law.

Marketing and Promotions

The Marketing and Promotions Unit will organise the Caribbean Development Bank's 32nd annual meeting of the Board of Governors, which is currently under the chairmanship of the Financial Secretary. Approximately 200 high-ranking representatives from the CDB member countries are expected to attend the meeting in May.

Internal Audit Unit

The Internal Audit Unit will focus its 2002 audit plan on the Government's commitment on improving the collection of new and existing revenue.

Public Service Pensions Board

The Public Service Pensions Board will be carrying out an actuarial valuation for the three Government-sponsored pension plans. It is the Board's goal to provide annual benefit statements to all participants by September.

Cayman Islands Monetary Authority

In 2002, the Monetary Authority will become independent in its supervision and regulation of the financial services industry. This will place complete operational decision making in the hands of the Board of Directors of the Monetary Authority and will remove the need for the approval of the Executive Council for certain decisions, such as the approval of licences. Additionally, independence will increase the authority of the Monetary Authority in terms of its enforcement powers and will enhance the credibility of the Cayman Islands' regulatory regime.

MINISTRY OF EDUCATION, HUMAN RESOURCES AND CULTURE

The Ministry's work programme continues to be shaped by its Philosophy Statement and Guiding Principles, which stress the development of written policy statements and an effective legislative framework for each sector.

Education

Primary consultation has taken place on a new Education Law, and a White Paper containing the proposed changes will be circulated to the public in April.

Over the next three years the Ministry has proposed five key goals:

- ♦ To promote and support school improvement.
- ♦ To strengthen the opportunities and quality of provision for teacher training.
- ♦ To improve information, communication and technology skills at all levels.
- ♦ To enhance the provision for technical and vocational education.
- ♦ To establish citizenship education as an integral part of the curriculum at all levels of schooling.

In 2002, the technical and vocational curriculum will be re-tooled to make it more responsive to the needs of employers. A Skills Audit will be carried out, using international instruments and advice from the International Labour Organisation (ILO). The Ministry has taken account of the finding of the *Committee of Inquiry into the Causes of Social Breakdown and Violence Among Youth in the Cayman Islands*, which called for the Education Department: **"to evaluate how and when vocational training can be most effectively offered and play an important role in promoting its value to the student and wider**

community". In keeping with this observation the first Technical and Vocational Trade Fair will be held in July with local business support.

The Ministry has taken on responsibility for the Cadet Corps and over three dozen young people have been recruited. The Cadet Corps Headquarters building is being refurbished, and the Commandant and Deputy Commandant have completed training at the Barbados Cadet Corps.

The Community College of the Cayman Islands will in September offer for the first time, certificate courses for pre-school assistants and classroom support staff. The College continues to work towards the introduction of four-year Bachelor Degree programmes in 2004.

Three schools are scheduled for full inspections in the coming year, Cayman Preparatory School, the Alternative Education Centre and West End Primary School. Triple C School, St. Ignatius High School and John Gray High School which have already been inspected will receive post inspection visits to monitor progress on their action plans.

In partnership with the Ministry and the Education Department, the Inspectorate will contribute to the development of a new national training programme for current and future principals by developing national standards for principals, a programme outline and course materials.

A taskforce to prioritise and cost recommendations from *The Report of the Committee to Examine the Conditions Relating to the Recruitment of Caymanians into the Teaching Profession* has been formed within the Education Department.

This year, decisions on the viability of maintaining three primary schools on the Brac where student enrolment is falling will have to be made. Similarly, a decision on the scope and future of educational services offered in Little Cayman will be considered. Public consultation on both these issues is ongoing.

The restructuring of the Department as recommended in the Millett Report has begun, and work has started on the corporate plan. Another recommendation of the Millett Report, the completion of an information technology audit in schools is to be carried out early in the year.

The re-structuring of secondary education is now under consideration and in this connection, in March, Professor Mark Bray of the University of Hong Kong and a world expert in Education Policy in Small States, will visit and give a "Distinguished Lecture" at the Community College, as well as hold several meetings with educators.

Employment Services

The Ministry's main legislative efforts have been carried out in the area of Human Resource Development, and this has led to the production of a White Paper, which is before the public for consultation.

Labour Tribunal cases still outstanding will be examined by an independent legal advisor whose work will be completed by March. With respect to new cases, the Employment Relations Department has sought assistance from the International Labour Organisation (ILO) on the establishment of an efficient case management system.

Following on the Syson report, increased attention will be paid to strengthening and expanding the conciliation service, which has now moved to the Employment Services Centre.

The Centre now has a Small Business Advisor who can provide personal business counselling and will also serve as a clearing house and licensing agent for training programmes being offered by colleges, various institutes and the Chamber of Commerce.

Progress has been made on the introduction of the Investors in People Programme, and the licence is expected to be signed in April. Implementation plans are going forward with our advisor, Wallace Walker, for the launch of the Investors in People Pilot Programme.

The Chamber of Commerce is mounting a Job and Education Expo in March, which is co-sponsored by the Employment Services Centre. This is the first time that the Ministry for Human Resources has been involved in this event, and their involvement has been welcomed and appreciated by the Chamber.

At the Expo the National Mentoring Partnership will be unveiled, and the latest edition of the Financial Assistance, Scholarship, Training and Education Guide will be released.

National Pensions Office

The Office of the Superintendent of Pensions in 2002 will fall under the new Department of Employment Relations, and its staff will have the additional responsibility for strengthening the delivery of benefits to the working community. In this regard the Pensions Office will encourage development of Retirement savings arrangements as viable alternatives to annuities.

The Supervisor of Pensions will continue with the review of the Pensions Law and recommended changes to the Law are incorporated in a White Paper published by the Ministry in January 2002. Proposals include the extension of pension provisions to provide disability and death benefits for employees and their families and changes to speed up action against defaulters.

Mr. Dick Richardson, Superintendent of Pensions, has announced his resignation after four years in the post and leaves at the end of March 2002. The Government is grateful to Mr. Richardson for his sterling work and wishes him well in his future endeavours.

Culture

Strategy Five of the Ten-Year National Strategic Plan - Vision 2008 called on the country to develop cultural awareness based on traditional Christian values and a strong family unit. To this end, the Ministry is developing a cultural policy which will help to enhance national identity, promote national integration and unity and maintain the harmony and values on which traditional Caymanian culture is based.

The Cayman National Cultural Foundation will again present the Annual Arts Awards to individuals and organisations nominated by the public as well as produce the seventh annual national arts festival, Cayfest.

Library Services

In conjunction with the Public Library Management Committee and the organisation's volunteer initiative, the Friends of the Public Library will focus on expanding its range of current children's and literary programmes.

It is anticipated that the West Bay district library will come on line this year. This will mean that all districts will be served with district library facilities.

Additionally, over the next several years, the parties will work to raise funds and resources to renovate the George Town Library starting this year with the construction of restroom facilities.

The owners of Harbour Place in George Town have offered a larger space to the National Gallery, and the move, which takes place in March, will greatly increase the Gallery's visibility and accessibility.

Native Done, a local artists co-operative displays and sells its work at the National Museum and the Old Savannah Schoolhouse one day per week. This joint venture, which includes both the Museum and the National Trust, has proven extremely successful, as evidenced by a waiting list of artists who wish to join.

The *Art Magnet* programme, funded by a grant from State Street Trust Company (Cayman) Limited is a new programme for at-risk teen youth where art is used to re-direct energies, build their confidence and improve their life skills. The National Drug Council, the Department of Social Services, the Lions Club and local teachers have all collaborated with the National Gallery on the project.

The third [Art@government](#) House was held at the end of January, and saw the largest crowds ever. This event is rapidly becoming a highlight of the Islands' cultural festivities.

National Archive

Computerised access to photographs is now available to the public in the Reading Room and this database will continue to be expanded to serve the more than one thousand researchers who use the Archive's resources each year.

During 2002 the National Archive will be closely involved in the publication of the new History of the Cayman Islands, as well as joining with other cultural institutions to develop the new cultural policy. The Archive is already playing a key role in preparing for the Quincentennial Celebrations in 2003, and this work will intensify during the year.

National Museum

The National Museum will develop an exhibition on the history of Cayman's maritime heritage for the Quincentennial Celebration and a Maritime Heritage trail is being planned.

MINISTRY OF COMMUNITY SERVICES, WOMEN'S AFFAIRS, YOUTH & SPORTS

Social Services

While the outlook for 2002 indicates an increasing demand for social work, probation and community development, the new framework this year is the planned finalization of two outstanding pieces of legislation – The Children Law, and the Adoption Law.

The Ministry will address the issues of detention and rehabilitation of delinquent youth by providing pro-social programmes that will include detention reform and will work through the Courts to establish alternative sentencing options. Already the Ministry has negotiated with Associated Marine Institute to revitalise the Cayman Islands Marine Institute (CIMI).

Community Development continues to forge ahead, promoting self-help and life-skills development, and staff are focusing on assisting with the establishment of a learning centre in East End within the first quarter of 2002.

The protection and care of our elderly remains a priority, and Community Development and Adult Special Needs units will be doing continuous public education programmes, addressing this issue in an effort to bring it into even sharper focus, and bring about some positive changes in our community.

Substance Abuse

The Department of Substance Abuse anticipates working closely with the Drug Court which will become operational in 2002. This will result in an increase of court referrals to both Caribbean Haven outpatient and residential services.

To combat the misuse of drugs among young offenders, the Government is committed to increasing treatment availability for youth via its ongoing collaboration with the schools, CIMI, RCIP and Social Services, concentrating on the younger children.

An evaluation of the Driving While Impaired Programme and the client treatment outcome study will be conducted in 2002. The Halfway House for

males is expected to open in March and indications are that this facility will be well utilized.

Prison Services

For the first time, prison services are the responsibility of an elected representative. The Ministry views the prison services as an essential part of community services to facilitate the re-integration of offenders into society, in addition to its punitive function.

Over the last two years the Prison staff has had to concentrate its efforts on reconstructing Northward Prison and developing Fairbanks Prison. In 2002, emphasis will be placed on developing a positive regime based upon structure and discipline in the Prison Service. This will have as its foundation an Incentives and Earned Privileges scheme, which will clearly differentiate between those who choose rehabilitation and those who do not. Every effort will be made to ensure that prisoners are fully and constructively employed. To this end, further development is planned with the Prison farm and market garden area.

Funding will be provided to improve facilities and much needed additional accommodation in the Prisons. This will include a new cellblock with an appropriate regime to deter those who import drugs into the Cayman Islands. Prisoners will provide the labour for these projects. The completion of the new Visits Block and the provision of two sniffer dogs will further improve security.

Youth and Sports

Within the terms of the National Youth Policy, both the Cayman Islands Youth Assembly and the Youth Passport will be established this year. Three Youth Development Officers will be provided to assist the Community Development Officers in the districts.

The Ministry and Department of Youth and Sports will complete the National Sports Policy this year, and will also implement the newly formed National Football Academy, as well as User Fees for the Truman Bodden Sports Complex, the Ed Bush Play Field and the Lion's Pool. Support for sports development, recreational playgrounds and park construction and maintenance will continue.

In recognition and support of our international athletes, the Ministry will fund a second Goodwill Ambassador, Miss Cydonie Mothersill, who along with Mr. Kareem Streete-Thompson will represent the Cayman Islands in athletics overseas. The Ministry will continue to provide full and partial scholarships to young people engaged in sports or interested in a career in sports.

In a public/private partnership, the Ministry will assist in the provision of a park in the districts of George Town, Bodden Town and East End. Work will also continue on the Frank Sound Park, Hutland Park and the Cricket Pavilion in West Bay.

Sunrise Centre

The Sunrise Adult Training Centre faces the challenge of providing support services for adults with disabilities throughout the Cayman Islands. The primary goal will continue to be the development of a new facility with a broader focus than is possible at present, and community input and participation will be sought to find solutions that meet the current and future needs of our special citizens.

Ex-Servicemen and Seamen Benefits

The Ministry will continue to review benefits provided to ex-servicemen and seamen or their surviving spouses. New criteria will be developed to ensure that those in need will receive these benefits.

Women's Affairs

The Ministry will complete a National Policy on Gender Equity and Equality. The Policy will be finalized in July 2002 and will commence immediately thereafter.

In keeping with Vision 2008, the Ministry will continue to share co-ordination responsibilities for the Domestic Violence Intervention Training Programme with the RCIP.

The establishment of a place of safety for battered women and their children is in progress and we anticipate that this will be available in the not-too-distant future.

The Ministry will continue to be a major sponsor of the monthly FOCUS programme on CITN, addressing issues related to domestic abuse. The Ministry intends to collaborate on a programme within the secondary schools that deals with violence.

Women's Resource Centre

In an effort to educate and inform a wider audience, the Women's Resource Centre plans to launch its own website this year and to complete a Community Resource Handbook, which will benefit the public and all agencies and organisations that provide community services to women and families.

Water Authority

In the second quarter of 2002, pending successful negotiations with the lowest bidder, the Authority will commence construction of the long awaited 2.5 million gallons per day, Grand Cayman Wastewater Treatment Plant that will replace the current waste stabilisation ponds. With the completion of this new Plant, the Authority will be well situated to meet Grand Cayman's needs for proper wastewater treatment over the next fifteen to twenty years. The new treatment Plant is expected to be online by the end of 2003, and will provide additional treatment capacity for the booming West Bay Beach area, as well as the

potential for incorporating new areas into the public sewerage system.

The Authority plans to double the production capacity of the water production Plant in the Brac within the first quarter of 2002, to ensure that the demand for trucked water during the dry season can be met.

Housing

Lack of affordable housing has been identified as one of the causes of social breakdown. The provision and maintenance of affordable, decent housing have been issues facing the Cayman Islands for quite some time now.

Using the experiences of previous housing initiatives, the Government has embarked on a programme to address the affordable housing issue in a multifaceted approach. This includes rehabilitation and repair of existing houses, provision of new houses, re-examination of laws and regulations, as well as other institutional barriers and opportunities that regulate housing construction and innovation in housing design, construction and financing.

MINISTRY OF PLANNING, COMMUNICATIONS, WORKS AND INFORMATION TECHNOLOGY

The Ministry has a number of key initiatives for 2002, including: -

- ◆ A review and Quantitative Risk Assessment of the current siting of petroleum storage facilities;
- ◆ The engagement of a Chief Petroleum Inspector to provide additional oversight of the bulk petroleum storage installations;
- ◆ In conjunction with the Ministry for Ports, the regularization of procedures and conditions applicable to all aggregate importers;
- ◆ An in-depth audit of the Caribbean Utilities Company (CUC) licence addressing key areas such as rate of return, capital and asset structure and fuel factor calculations; and
- ◆ The liberalisation of the telecommunications sector and enactment of the Information Communications Technology Law.

Environmental Health

The Department of Environmental Health (DEH) will continue to provide weekly basic food hygiene and safety training courses for food handlers and regular inspections of all food establishments. Similar surveillance and training will be provided to the health and beauty sector.

The DEH will undertake the establishment of new cemeteries in Bodden Town and East End.

Solid Waste Section

In preparation for the day when capacity will be reached at the George Town landfill and Cayman

Brac landfill in the near future, the DEH will prepare a closure plan for both. The plans will specify the method of closure and identify possible future land uses for the two sites.

In addition, the Department is prepared to commence the bidding process for a new disposal technology to replace the George Town landfill; and the development of a new site for Cayman Brac. For Little Cayman, the Department will prepare a solid waste management plan detailing methods for improving operations and maximising capacity at the existing landfill.

New residential collection routes will be established across the Island, consolidating seven routes into three. The new routes will result in a more efficient and timely collection system and will also allow for closer monitoring of collection crew performance.

Lands and Survey

Following the publication of the Official Street Atlas of the Cayman Islands, the Lands and Survey Department will consolidate its position as the provider of additional land-related information in the Islands. The year 2002 will see the migration of several software platforms in use within the Department, and it is hoped that the long delayed establishment of the delivery of services and information by Web technology will become a reality.

Mosquito Research and Control Unit

During 2002 the Mosquito Research and Control Unit will embark on an innovative research programme to analyze DNA from mosquito populations to detect the presence of West Nile virus and dengue virus. DNA analysis will also allow early detection of infestations from overseas of the yellow fever mosquito, a primary disease carrier, by positive and timely identification of mosquito eggs. This powerful research tool will clearly enhance MRCU's disease prevention capability, and can be readily extended to include malaria and other mosquito borne diseases.

Planning

The review of the Development Plan 1997 will be completed by the end of 2002 and should be tabled in this House in early 2003. The review will involve extensive and ongoing consultation with the public through the Development Plan Review Committee, District Sub-committees and Special Issue Sub-committees.

The Department's other strategic objectives for 2002 are: -

- ◆ A comprehensive review of the Planning Law, Regulations and Planning Appeals Rules,
- ◆ Completion of a land use inventory for the districts of Bodden Town and West Bay,

- ◆ To continue staff training throughout the year, including policy management studies, and undergraduate planning degrees,
- ◆ Completion of the Department's first strategic plan.

Postal Services

The construction of the new West End Post Office in Cayman Brac is scheduled for completion during the second quarter of 2002. The 3,500 sq ft facility is a long-awaited enhancement to the postal services for the residents of that area of Cayman Brac.

The completion of a design for the Savannah Post Office to serve the growing needs of that district with early future construction is a priority as is an extension to the West Bay Post Office.

Public Works

Buildings Division

Construction is planned to commence on the following significant capital projects in 2002: -

- ◆ The provision of low risk (Category D) accommodations, laundry and a remand facility for youth at Northward Prison.
- ◆ The provision of washroom facilities to the George Town Library and George Town bus depot at the old PWD compound.
- ◆ The fit-out of a new courtroom.

Design work will continue on the following major projects: -

- ◆ The proposed new government office building,
- ◆ The proposed new primary school in the Spotts area,
- ◆ The proposed new secondary school.

Roads Division

In the main road resurfacing programme, a one-mile section of road between Bodden Town and Breakers will be rehabilitated.

To relieve traffic congestion experienced by motorists travelling to and from the eastern districts, the intersection of Crewe Road and South Sound Road will be upgraded to a modern dual lane roundabout. It is expected that this will be done with assistance from the developer of the Grand Harbour property.

In the development roads programme, it is hoped that work will continue to complete phase one of the Crewe Road bypass to Bobby Thompson Way. Also planned is the gazetting, commencement of land acquisition and preliminary works to upgrade the Elgin Avenue roundabout to a modern dual lane roundabout and the upgrading of the intersection of Esterly Tibbetts Highway with West Bay Road to a mini-roundabout to improve traffic heading to West Bay.

Planning and gazetting of the future extension of the Esterly Tibbetts Highway and a new entrance scheme for the Hyatt Hotel will continue, as well as planning of future improvements for the road network to the eastern districts.

Computer Services

For 2002, Computer Services will work to provide more cost effective, reliable and responsive network data communication services to government offices in most outlying districts. This service will enable entities like the Prison and schools to take advantage of the technologically driven productivity improvements now being realised by departments located in central George Town.

Computer Services staff will work in partnership with non-government IT specialists to convert Government's accounting systems from cash based to accrual accounting.

The staff of Computer Services will also continue the development of the hugely successful Government Website portal www.gov.ky. Phase 2 of this on-going project includes the integration of a governmental recruitment Website and new Websites for high profile government agencies.

Information Technology Strategy Unit

The development of e-Business and Information and Communications Technology (ICT) continues to be a top priority for the Government, and the key to this, as well as to the development of these Islands, is the liberalisation of the ICT sector. Accordingly, the new ICT Bill will be brought to this Honourable House during this session to create the legal framework for the introduction of competition, and also to establish the independent statutory body that will be required to regulate the sector.

The aim is for this statutory body, to be known as the Information and Communications Technology Authority (ICTA), to be operational by August of this year. This, together with the conclusion of discussions with Cable and Wireless, should allow the first licences under the new Law to be issued in early September.

Very shortly, it is anticipated that negotiations for the transfer of the management of the Cayman Islands Internet Domain (.ky) to Government will be successfully completed. Once the ICTA is fully established, they will assume responsibility for this task.

During the first half of the year, Government, in conjunction with the private sector, and the Chamber of Commerce in particular, will launch a full marketing campaign to promote the Cayman Islands as an offshore e-business centre. This effort will include the launching of a website dedicated to the promotion of e-business, and the creation of a joint venture company to administer it. Of significance is the development of the Brac Informatics Centre in Cayman Brac.

Finally, the legislative programme will include discussion papers on a stand-alone data protection law, further protection for intellectual property rights, and the need for specific consumer protection and competition legislation in the digital age.

Telecommunications Office

Funding has been approved for the partial upgrade of a 12-year-old radio communication system that supports the emergency services and most other government agencies. The Telecommunication Office (OFTEL) will oversee this major project aimed at enhancing in-building radio coverage and digital communication security. Users of the old radio system will not need to replace their existing equipment as the new system supports both old and new radios, thus ensuring compatibility and reducing costs.

A public/private sector partnership between the National Hurricane Committee and the local utility companies, with the technical support of OFTEL, has now established a new Weather Radio Broadcasting station at 107.9 megahertz on the FM dial. Anyone with a FM radio can receive official national weather forecasts 24 hours a day, with frequent updates and official information broadcast during periods of tropical storm activity. The service, which is available in the Grand Cayman area, will eventually be extended to the Sister Islands.

MINISTRY OF HEALTH SERVICES, DISTRICT ADMINISTRATION AND AGRICULTURE

The Ministry of Health Services, District Administration and Agriculture anticipate the achievement of the following key objectives for 2002. The enactment of legislation to provide for Health Services fee increases, as well as the approval of the Legislative Assembly for the following legislation: -

- ♦ A revised Health Practitioners' Law and accompanying Regulations,
- ♦ A Health Services Authority Law,
- ♦ A revised Health Insurance Law,
- ♦ A revised Mental Health Law,
- ♦ A revised Pharmacy Law with accompanying Regulations,
- ♦ A revised Plant Law,
- ♦ Pesticide Control Law with accompanying Regulations.
- ♦ Oversee the initiation of a programme geared to increase patient satisfaction with services provided at the Health Services Department and the improvement of the fees and collections process.
- ♦ Implement a change in the organisational structure of the Health Services Department and monitor the implementation of a Strategic Financial Plan.
- ♦ Monitor the implementation of the Master Health Facilities Plan for the Islands.

- ♦ Support the continued upgrade of the physical infrastructure in Cayman Brac and Little Cayman, for example, Brac Museum, sports and recreational facilities and Little Cayman roads.
- ♦ Promote the development of procedures for food security and safety for the Cayman Islands and the health and wellness of our population and other natural resources,
- ♦ Ensure effective strategies are in place for Radio Cayman to increase revenue and become self-sufficient,
- ♦ Strengthen the measures to minimize passenger inconvenience at local airports while maximising aviation security,
- ♦ Review the management structure and regulatory processes of the Civil Aviation Authority.

Health Services

During the year a new fee schedule will be introduced in two phases to more closely reflect the cost of providing health care services.

Health Services Authority

It is intended that the Health Services will become a statutory authority by the 1 July 2002. The Authority will allow the services to operate as a business and ensure the sustainability of the health care delivery system that the community has come to expect.

Mental Health, Hospice and Geriatric Facilities

The provision of Mental Health, Hospice and Geriatric Services will be enhanced with the commissioning of new purpose built in-patient facilities scheduled for completion by the middle of 2002.

District Administration

Efforts to encourage private sector business investment on Cayman Brac will continue. The last quarter of 2001 saw the start up of a Credit Union Office and an insurance company branch office. It is hoped that this is just the beginning of a new trend.

A study of the endangered Brown Booby birds has been completed. A report is to follow and recommendations for protection of the birds will be implemented.

Expansion of Nature Tourism attractions will be undertaken for Little Cayman. The initial phase will be the installation of viewing platforms, signage and opening of historic footpaths. This has been made possible with a grant from the Foreign and Commonwealth Office and some internal funding.

Agriculture

A campaign labelled "Bringing Water to Life" was launched at the recent Annual Agricultural Show

and will demonstrate the potential for local aquaculture development. It is intended to stimulate further interest in the use of hydroponics in crop production at the level of commercial farmers and home garden enthusiasts.

Following the completion of studies and consultations with regards to the establishment of a Pesticide Regulatory Authority, a new pesticide law with its regulations will be presented to the Legislative Assembly. This will greatly enhance the protection of the health of persons, plants and animals and that of the natural environment.

Other legislative matters to be pursued include the amendments to the Animals Law and Regulations that will modernise the Law, especially in respect of animal owner responsibility and those matters that pertain to neglect of and cruelty to animals. Additionally, a Bill will be produced that aims to provide the Chief Agricultural and Veterinary Officer with greater powers over the importation of plants, soil and growing media.

On Cayman Brac, capital works will improve the infrastructure at the Spot Bay Office and also provide new crop demonstration activities for the benefit of growers in Cayman Brac and those who will visit from Little Cayman. Greater sharing of the Department's technical expertise between Grand Cayman, Cayman Brac and Little Cayman is also planned.

Radio Cayman

The focus this year will be to enhance Radio Cayman's operational plant and increase revenue, while maintaining an emphasis on local, educational, cultural, informational and interactive programming, for a better informed community.

Civil Aviation Authority

On the 28th November 1952, the first arrival of a land-based aircraft occurred on Grand Cayman. This event would set the stage for the buoyant development of air transport and thus tourism in the Cayman Islands. This 50th anniversary milestone will be celebrated throughout the latter months of this year and will include the involvement of the schools, churches and local industry partners. Historical aircraft exhibitions will be held, as well as special events involving the current aviation air transport providers. Additionally, the Civil Aviation Authority will host the first meeting of the Directors of Civil Aviation of the Caribbean Region organised by the International Civil Aviation Organization.

Efforts are continuing towards the preparation of a major development programme over the next few years to improve the aviation infrastructure at the Owen Roberts International Airport.

Following the targeting of aviation as a means of carrying out terrorist actions and threats over the past several months, expanded initiatives have been employed to strengthen the aviation security regime

worldwide. The Cayman Islands are no exception and additional measures have also been implemented locally with directives and advice being provided by the UK Department for Transport, and local and regional governments.

While specific measures are being taken during this era of heightened security, such measures will become a normal part of the air transport processes from the 1 January 2003. To this end, the Civil Aviation Authority will redesign the passenger terminal affecting these processes in order to minimize passenger inconvenience while maximizing aviation security.

In keeping with the standards and recommended practices of international aviation, the structure of the management and regulation of civil aviation in the Cayman Islands will be taken into focus this year. Specifically, it is preferable if the entity providing aviation services were separated from the body responsible for the regulatory processes of aviation.

MINISTRY OF TOURISM, ENVIRONMENT, DEVELOPMENT AND COMMERCE

The Ministry of Tourism, Environment, Development, and Commerce is currently developing the guidelines and framework for the establishment of an Investment Bureau and a Growth Management Board.

In 2002, the Ministry will pursue initiatives aimed at facilitating the growth necessary to fuel the local economy while being mindful of the impact development has on the social and physical environment of the Cayman Islands. The Vision 2008 project highlighted that residents of these Islands are cognizant of the complex relationship that exists between progress and preservation and want a more concerted effort to ensure that these competing interests are openly and effectively managed.

Cayman Islands Investment Bureau

The Investment Bureau is due to be established by mid-year and will provide a one-stop-shop for those interested in investing in the Cayman Islands. The Bureau will provide prompt and efficient service that is client focused and responsive to business needs and trends. The Investment Bureau will also seek to maximize the return on the Government's investments to promote abroad its two main industries of tourism and financial services. To this end, it is the intention of Government to establish Cayman Islands Tourism and Investment Offices in London and New York by November 2002. This will make greater use of our resources abroad and, for the first time, include direct representation of Cayman's financial services in these two strategic foreign financial centres.

Cayman Islands Growth Management Board

It has become apparent that there is a real need to balance the competing interests of growth and preservation. The Growth Management Board is progressing in the developmental stages. The Board will be comprised of representatives from both the public and private sectors who are well respected in the following areas: Environment, Culture, Tourism, Planning, Finance, Human Resources, Legal Services, Customs and Utilities.

The board will consider potential development projects of a minimum value of CI\$250,000 and provide comprehensive advice, in consideration of the disciplines represented at the board level, to the Executive Council. By consolidating representation from all of the requisite authorities, the board is geared to enhance existing safeguards, as all relevant authorities will have equal and simultaneous access to information. As an additional benefit streamlining the process will strengthen the jurisdiction's ability to promote itself as having an efficient business environment suitable for appropriate investors.

Tourism

The review and assessment of the Department of Tourism (DoT) that was initiated last year is continuing, and much progress has already been made. The key building blocks are already in place for the next phase of tourism management including the recruitment of a new Director of Tourism with extensive travel industry experience, and the restructuring of the US operations of the Department of Tourism. This ongoing restructuring has already resulted in a downsizing of the US staff from 50 to 35 with annual recurrent savings in salaries of over US\$650,000.

The Strategic Objectives for 2002 include: -

- The development and implementation of an effective integrated marketing communications programme which recognizes the diverse needs of special stakeholders in the Cayman Islands, and the improvement, maintenance and management of those tourism products and services which provide the highest quality product experience for visitors.
- The establishment of a policy framework to guide the development, diversification and management of the industry to ensure the sustainability of tourism in the Cayman Islands for future generations.
- The Ministry of Tourism, in collaboration with the Ministry of Education, intends to develop and implement an effective hospitality training centre to provide the skilled, service oriented workforce necessary to support sustainable tourism in the Cayman Islands.

The past year was a difficult one for the local tourism industry but under new leadership in the Ministry and Department, the public sector is changing to meet the challenges and to attain a stronger, sustainable tourism sector for the Cayman Islands.

Quincentennial Celebrations Office

The Quincentennial Celebrations Project was officially launched in January 2002. Already, a draft programme is in place, the website has been launched and various activities are underway to solicit the widest public input for completing the programme for the year of celebration.

The programme is founded on the Office's mission statement, which seeks to plan and coordinate a dynamic and exciting celebration of the first 500 years of our recorded history.

The programme will provide events and activities, which cover our maritime heritage and our cultural, historical and social developments.

Tourism Attractions Board

The Tourism Attractions Board continues to tackle the challenge of making optimal use of Government owned land-based attractions while generating sufficient revenue to be self sufficient and relieve Government of its related financial obligation. The board has adopted site-specific measures to facilitate this objective in 2002.

Botanic Park

At the Botanic Park, the nursery is being expanded to increase local plant sales and fund raising events such as the Orchid Show in February and Mango Morning in August will be held.

During the year, Park staff will create a plant display house at the Visitors' Centre and widen the plant labelling process in the gardens.

In addition, the Orchid Society will build a small lab in the Nursery to facilitate orchid propagation. Cruise ship advertising began in January and efforts are underway to increase visits to the Park via the North Sound connection to Sand Point.

Pedro Castle

At Pedro Castle, the quadrangle will be roofed to create an intimate rental space for small groups. The Steadman Bodden House will be restored and offered for rent to wedding parties. Cruise ship advertising will run throughout the year and an economically produced information booklet on the site will be available free of charge shortly. Additional tour groups from the cruise ships are slated to begin this month and Disney Cruise Line visits starting in May are projected to increase visits by 30 percent.

Pirates Week

Efforts will be made, through the Department of Tourism, to resume overseas promotion of the National Festival through Pirates Week representation at travel promotions in the USA, and through discounted travel packages at festival time. Plans are in train to generate an economic impact study on the festival.

Cayman Turtle Farm

In light of the major damage sustained by the Turtle Farm on 4 November 2001 in the wake of Hurricane Michelle, the Government endorsed the Board of Directors' decision to relocate the Farm's existing seaside operation to the Farm's property on the land side.

A consortium of local firms has been commissioned to carry out the design work for the relocation and the application for outline planning approval has been made for this project. The initial objective is the completion by June of a new breeding pond to house the remainder of the breeding stock.

The Farm's secondary herd continues to be stabilised, evaluated and counted. In light of the losses suffered by the herd in November, processing has been reduced in order to provide the Islands' residents with a sustainable supply of turtle products.

Cayman Airways

In 2002, the Ministry, Board of Directors, and Management of Cayman Airways will continue to plan, evaluate and implement measures aimed at improving the airline's operations. The objective of the new Cayman Airways Board of Directors is to operate a financially viable airline, providing quality passenger and cargo service, promoting economic development in the Cayman Islands, while ensuring safety and reliability as our number one priority.

The board's immediate focus is on pursuing a turn around strategy and developing with the support of the airline's management, a six-month governance action plan which takes into consideration the airline's present precarious financial position and the economic environment in which it operates.

The board believes that in order for the implementation of any strategy to be successful, it is imperative that senior management of Cayman Airways Limited is involved in the development and execution. Consequently, the board has instructed management to develop a business plan covering 2002 and 2003 by February 2002. Future decisions on the airline are largely dependent upon the extent to which this primary task is met and complies with the mandate given by the Board.

Environment

In 2002, the Department of Environment will continue to assist the Ministry in the development and

implementation of policies and legislation that afford protection to the environment.

In addition, the Department plans to build on, and complete, the 2001 Marine Parks Review through a public outreach programme and ultimately to implement those recommendations that will take the Cayman Islands' Marine Parks System into the 21st Century.

Agricultural and Industrial Development Board/ Housing and Development Corporation

The Cayman Islands Development Bank (CIDB) is now a reality—the law having been passed last December. It is expected that the Bank will be officially opened by March of this year.

The CIDB will continue in the tradition of its forerunners—the Agricultural and Industrial Development Board and the Housing and Development Corporation—in improving various Government-supported programmes such as the Guaranteed Home Mortgage Scheme, the Student Loan Scheme and the Scholarship Programme.

One of the emphases of the Development Bank will be on housing, as it utilises funds from the recently approved loan from the Caribbean Development Bank. The other is on providing credit, especially for micro-entrepreneurial projects. In both instances, lower income wage earners will be specifically targeted.

Port Authority

With the continued soft economy, the Port Authority forecasts no real increase in cargo tonnage in 2002 over the levels experienced last year. By contrast, the number of cruise ship passengers, which grew by 17 percent to \$1.21 million in 2001, is anticipated to again reach record levels in 2002.

The Port Authority has reviewed and revised its plans for enhancing and expanding facilities at George Town. Given the forecasted increases in cruise ship passengers in the near future, the emphasis has now focused on upgrading our cruise facilities. To this end, plans are being finalised for a new cruise tender terminal, the Fort George Terminal, to be located at the site of the present Watler Building. As a second phase of development, the present North and South cruise tender terminals will be redeveloped.

It is expected that construction of the Fort George Terminal will begin in mid-2002. The Ministry, in consultation with the Florida Caribbean Cruise Association is looking at the feasibility of a cruise ship terminal in the district of West Bay.

It is the long-term vision of the Port Authority to utilise the George Town Port exclusively for cruise tourism. The cargo facility would be relocated to a suitable site subject to a feasibility study.

Fire Services

During 2002, in order to maintain the level of competence and efficiency required to meet international obligations, in particular the Airport Rescue and Fire Fighting section, two officers will be attending special advance courses at a recognized institution in the UK. In addition, efforts are underway to bring in a specialist trainer to conduct specific courses in Aircraft Rescue and Fire fighting Tactics and Techniques for the entire service. Staff in Little Cayman and Cayman Brac will be brought to Grand Cayman for refresher training.

The Department will continue to monitor closely for overcrowding in nightclubs and other liquor licence premises that routinely accommodate large groups of people.

The Department will continue to work with the proprietors of a local gas company to identify and upgrade premises not in compliance with adopted Liquefied Petroleum Gas standards and to implement a programme to address the growing problem of the improper use and storage of small liquefied petroleum gas cylinders, particularly among home owners.

Vehicle Licensing Unit

The Vehicle Licensing Unit is presently testing a new computer system in order to increase security and to discontinue time-consuming duplication of data input.

The antiquated cash and deposit procedures are also being reviewed to make them more efficient and secure. Consideration is once again being given to providing licensing services in Bodden Town.

CONCLUSION

Madam Speaker and Honourable Members, as I now conclude my third and final Speech from the Throne, I should like to record my thanks to the many persons who were involved in the compilation, editing and completion of the finished text.

As I shall not have the chance to address this House again, I also wish to record my appreciation of the courtesy and friendliness with which I have always been greeted within this Assembly, whether on official or unofficial occasions. I value my relationship with you, the Legislators, and wish you all well in your important work as the democratic process deepens and matures here in Cayman.

As you now embark on the First Meeting of this new Session of the Legislative Assembly, I pray that the wisdom and compassion of the Almighty will inform and guide the deliberations that will take place in this House. May the Lord continue to direct and nurture the people of these lovely Islands.

Thank you.

DEPARTURE OF HIS EXCELLENCY THE GOVERNOR

[His Excellency the Governor, preceded by the Serjeant-at-Arms and the Honourable Speaker, followed by Mrs. Smith, the Aide-de-Camp, the Hon Chief Justice, Mrs. Sanderson, Kamaal Connolly, and the Minister depart from the Chamber]

SPEAKER'S PROCESSION

[The Honourable Speaker returns to the Chamber]

Proceedings resumed at 11.16 am

The Speaker: Please be seated. Proceedings are resumed. I now call upon the Honourable Leader of Government Business to move the appropriate Motion.

GOVERNMENT BUSINESS

Motion for the Deferral of Debate On the Throne Speech

Hon. W. McKeeva Bush: Madam Speaker, I am pleased to move:

"BE IT RESOLVED that this Honourable Legislative Assembly records its grateful thanks to His Excellency The Governor, for the address delivered at this meeting.

"BE IT FURTHER RESOLVED that debate on the address delivered by His Excellency The Governor, be deferred until Wednesday, 20 February 2002".

The Speaker: Thank you, Honourable Leader. The question before the House now is that the House do record its gratitude to His Excellency The Governor and that the debate on the Throne Speech be deferred until Wednesday, 20 February 2002. If there is no debate, I shall put the question, all those in favour, please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. The debate is accordingly deferred until Wednesday.

Agreed: This Honourable Legislative Assembly records its grateful thanks to His Excellency the Governor for the address delivered at the meeting and further that the debate on the Address delivered by His Excellency the Governor be deferred until Wednesday 20 February 2002.

The Speaker: At this time I propose to take a 30-minute suspension and I would wish for all Members to meet me in the Committee Room at 11.30 am.

Proceedings suspended at 11.18 am

Proceedings resumed at 11.57 am

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

The Speaker: Please be seated. Proceedings are resumed. Before Madam Clerk rises, I wish to acknowledge the presence of the former U.S. Secretary of Transportation from the Clinton Administration, Mr. Rodney Slater, who is sitting in our VIP Lounge, and I welcome him to the Cayman Islands' Parliament.

Madam Clerk.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 2/02

Amendment to Standing Order 32(6) of the Legislative Assembly Standing Orders (1997 Revision)

The Speaker: The Fourth Elected Member for the district of West Bay.

Mr. Cline A. Glidden, Jr.: Thank you, Madam Speaker.

I would like to move Private Member's Motion No. 2/02, which is entitled, Amendment to Standing Order 32(6) of the Legislative Assembly Standing Orders (1997 Revision) and it reads: -

¹ **"BE IT RESOLVED THAT in accordance with the provisions of Standing Order 87, Standing Order 32(6) be amended as set out in the attached draft proposal".**

The Speaker: Is there a seconder?

Mr. Rolston M. Anglin: Madam Speaker, I beg to second the Motion.

The Speaker: Thank you, Honourable Member. In accordance with the provision of Standing Order 87(3), the question is that the Motion be referred to the Standing Orders Committee.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Private Member's Motion No. 2/02 stands referred to the Standing Orders Committee.

The Speaker: It is also my understanding that the Committee wishes to meet this afternoon. I would call on the Honourable First Official Member to so confirm.

Hon. James M. Ryan: Thank you, Madam Speaker.

Notice is now being prepared for the calling of the Select Committee on the Standing Orders at 2 o'clock this afternoon.

The Speaker: I now call on the Honourable Leader of Government Business to bring the Motion for the Adjournment.

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, I move the adjournment of this Honourable House until Wednesday, 20 February 2002 at 10 am.

The Speaker: Thank you. The question is that this Honourable House do now adjourn until Wednesday, 20 February 2002 at 10 am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 12 noon the House stood adjourned until Wednesday, 20 February 2002 at 10 am.

¹ See Report of Standing Orders Committee, page 17

OFFICIAL HANSARD REPORT
WEDNESDAY
20 FEBRUARY 2002
11.40 AM
Second Sitting

The Speaker: I invite the Honourable Member for the district of East End to grace us with prayers.

PRAYERS

Mr. V. Arden McLean: Let us pray.

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

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

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

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

Proceedings resumed at 11.42 am

The Speaker: Please be seated. Proceedings are resumed.

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

Apologies

THE SPEAKER: I have received apologies for the Honourable Minister responsible for Planning, Communication, Works and Information Technology.

**PRESENTATION OF PAPERS
AND OF REPORTS**

Report of the Standing Orders Committee to Consider the Proposed Amendment to Standing Order 32(6) of the Legislative Assembly Standing Orders (1997 Revision)

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Madam Speaker, on Friday, 15 February 2002, this Honourable Legislative Assembly agreed in accordance with the provisions of Standing Order 87(3), that Private Member's Motion No. 2/02, be referred to the Standing Orders Committee.

The Motion was accompanied by a draft of the proposed amendment which reads:

"BE IT RESOLVED THAT, in accordance with the provisions of Standing Order 87, Standing Order 32(6) be amended as set out in the attached draft proposal.

That Standing Order 32(6) which reads: **"32(6) No Member at any one time may speak on any debate for any period of time which, exclusive of breaks, exceeds four hours"**, be deleted and the following substituted therefor: **"32(6) No Member at any one time may speak on any debate for any period of time which, exclusive of breaks, exceeds two hours"**.

The Motion was moved by Mr. Cline Glidden, Jr., the Fourth Elected Member for West Bay and seconded by Mr. Rolston Anglin, the Second Elected Member for West Bay.

Minutes of Proceedings

The minutes of proceedings are attached to the report hereto.

Committee's Recommendations

The Committee met on Friday, 15 February 2002 and agreed by Majority that Standing Order 32(6) which reads: **"No Member at any one time may speak on any debate for any period of time which, exclusive of breaks, exceeds four hours"**, be deleted and the following be substituted therefor: **"32(6) No Member at any one time may speak on any de-**

bate for any period of time, which exclusive of breaks, exceeds two hours”.

The Committee agrees that this Report be the Report of the Standing Orders Committee to be laid on the Table of this Honourable House. Accordingly, I beg to lay the Report of the Standing Orders Committee on the Table of this Honourable House.

The Speaker: So ordered. Does the Honourable Member wish to speak thereto?

Hon. James M. Ryan: No, Madam Speaker, no further than I have already read the Report. However, with your permission I now wish to move the Motion.

The Speaker: So ordered.

Hon. James M. Ryan: Madam Speaker, in accordance with the provision of Standing Order 74(5), I move that the recommendations contained in the Report be adapted.

The Speaker: Is there a seconder?

Hon. Gilbert A. McLean: Madam Speaker, I beg to second the Motion.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker.

The Speaker: Yes, Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: The Report is opposed.

The Speaker: If I may refer to Standing Orders 74(5), it says, “**The report or special report together with a copy of the minutes of the proceedings of a select committee shall be presented to the House by the chairman or Member of the committee acting on his behalf, and shall be recorded in the minutes of proceedings of the House as having being so presented and the chairman or any Member may, forthwith and without notice, move that the recommendations contained therein be adopted, modified or rejected, and if the Motion is seconded and unopposed the Presiding Officer may forthwith and without debate put the question thereon.**”

The Motion has been opposed by the Second Elected Member for George Town. I shall put the question as the question is that the Report be hereby adopted.

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

Ayes.

Mr. Alden M. McLaughlin, Jr.: No.

The Speaker: The Ayes have it. Is there a call for a Division? Second Elected Member for George Town.

Point of Order

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, on a point of order.

The Speaker: Please let me hear your point of order.

Mr. Alden M. McLaughlin, Jr.: It is in relation to the procedure which is required by Standing Order 74(5).

What the Standing Order, in my view, indicates is that if a Motion is brought moving the adoption, modification, or rejection of the report and the report is then seconded, it is only in a case where the report proceeds unopposed, that the presiding officer is entitled to forthwith and without debate, put the question.

Madam Speaker, the Report was opposed and therefore, in my respectful submission, before the question can properly be put, there has to be an opportunity for debate on the Motion.

The Speaker: I take your point of order Honourable Member. The Floor is now open for debate. The Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

When this Honourable House sat to hear the delivery of the Throne Speech last Friday, immediately following the delivery of the Throne Speech with very little notice to Members on this side of the Floor, Private Member's Motion 2/02 was moved by the Fourth Elected Member for West Bay and seconded by the Second Elected Member for West Bay.

That Motion reads as follows: -“**BE IT RESOLVED that in accordance with the provisions of Standing Order 87, Standing Order 32(6) be amended as set out in the draft attached proposal**”. Which reads . . .

The Speaker: Honourable Member, if I may, I would ask if you would exercise with caution and refrain from resurrecting the debate that ensued on a Motion that a vote has already been taken and passed, seeing that the Motion was passed unanimously and there was no division called on that particular Motion on Friday of last week. Please proceed accordingly.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I was simply trying to read the text of the Motion so that my debate would be understood. May I proceed to do that, Madam Speaker?

The Speaker: Honourable Member that Motion was discussed at length and has been put to bed. I would invite you to discuss on the relevancy of your objection.

Mr. Alden M. McLaughlin, Jr.: I am in your hands, Madam Speaker.

As a result of that Motion—on which there was no debate—the question of a proposed amendment to

Standing Order 32(6) stood referred to the Standing Orders Committee. A meeting of the Standing Orders Committee was called immediately following the rising of the House. During the course of the deliberations of that Committee a number of issues were raised. The result was that a number of the Members of that Committee (the First Elected Member for George Town, the Elected Member for East End, the Elected Member for North Side and I) took issue with the proposed amendment. I should note that the Third Elected Member for Bodden Town was off the Island and therefore not in attendance.

Our position was that to amend the Standing Order in the manner proposed, which would reduce the length of time a Member is entitled to speak on any debate from four hours to two hours, without affording the Minority Members of this Honourable House some protection—some written assurance contained within the Standing Orders themselves—that their right to equal and adequate time to debate matters was a situation which we could not agree with.

Madam Speaker, generally speaking, none of us had any real issue with the reduction of the time. However, we felt that there were some Motions such as the debate on the Throne Speech and the Budget that may well warrant more than simply two hours. But our fundamental disagreement with what is being proposed is that we have sat on this side of this Honourable House and since the 8 November 2001, the Standing Orders of this Honourable House, which relate to the giving of notice, have been suspended 39 times. The alacrity with which the Government suspends Standing Orders, we fear, may well find us in the position that while we are limited in our debate to two hours, they have the ability under the Standing Orders to suspend Standing Order 32(6), thereby giving their Members the ability to debate indefinitely on any matter they so choose.

So, we suggested that to afford all Members of this Honourable House equal and adequate time to debate all issues—so that there would be no question that our right to speak would be curtailed, and the right of Members of the Government to speak would be capable of extension indefinitely—we should write into the relevant Standing Orders a provision to the effect that the suspension of that Standing Order 32(6) to extend the debate of any Member should be subject to your discretion. And that you should only exercise that discretion if you are satisfied that to do so would not result in an infringement of the rights of the Opposition to free speech and equal time to debate all issues.

We also noted that if in fact the time for all debates was to be shortened to two hours there should be provision for the borrowing of time between Members. This happens in some other parliaments. This provision would actually facilitate and expedite the business of this Honourable House, as both the Government and the Opposition would then be in a position to designate the Member who is best suited to debate a particular issue, knowing full well that that individual

would have adequate time to deal with the matter comprehensively. And, if the two hours proved inadequate they could borrow their required extension from other Members who were like-minded on that particular Motion.

We put these points across and we were given leave pursuant to Standing Order 74(3)(h) to put in a concise written statement of our reasons for such dissent. That was on Friday evening. We went to work and we prepared that concise written statement of the reasons for our dissent and submitted it to the Clerk. The meeting which had been set up from the previous Friday was duly convened on Monday at 3 pm to consider our dissenting statement.

Madam Speaker, I know you are aware of this because you were there. Astonishingly, however, having considered the written statement that we had submitted in accordance with the relevant Standing Order, the Committee chose to reject it. There was an attempt by some Members of the Committee to incorporate some parts of the reasons for dissent. I am not sure where it would have been incorporated, but I believe they had in mind incorporating it into the main report. There were some who had fundamental problems with the proposal that the extension of the relevant Standing Order to give additional time to Members should be within the discretion of the Speaker.

And so I am still struggling to understand how we arrived at a situation, whereby leave is given by the Committee for us to prepare a dissenting report but because having seen the dissenting report it did not accord with what the Government wished. The report is not appended to the report of the Standing Orders Committee.

The Speaker: Honourable Member instead of referring to Government, it would be more accurate to say the Majority of the Committee.

Mr. Alden M. McLaughlin, Jr.: I am grateful to you Madam Speaker—the Majority of the Committee.

I suppose the problem is that the Committee seems to believe, or at least some dominant Members of the Committee seem to believe that the other Members of the Opposition, including myself, are only entitled to dissent if our dissension finds favour with them. That, in my respectful submission, makes a mockery of the whole process.

I did not, nor did any other Member of the Opposition, expect the Government to agree with the report that we have prepared. Neither did we expect our dissenting report to be adopted by the Committee. The whole point of the exercise and the whole reason why there is relevant Standing Order dealing with a dissenting report, is because the Standing Orders recognise that in a legislature which is supposedly governed by democratic principles, those who have the Minority view will always be out-voted. However, the right to put forward that dissenting view is championed and held sacred. The exercise by the Standing Orders Commit-

tee on Monday, in my respectful submission, has driven a coach and horses through this fundamental principle.

We are now at a point where our right to dissent and to have that dissension recorded and tabled in this Honourable House has been abrogated.

There are some Members of the Standing Orders Committee who have a skewed view of what democracy is all about. The only bit of it that they understand is that the Majority rules. I accept that. The Majority rules, but the protection of the rights of the Minority is critical to the whole democratic process. It is fundamental and when we become intolerant of the other person's opinions and views and intolerant of his right to state his views, we are walking down the road to authoritarianism.

Madam Speaker, there is a reason why we have Standing Orders. If the rules were pure and simple Majority rules we would need none of this. But every Member of this House is supposed to be governed by these rules. The reason they are there in writing is that when we start the game we know what the rules are and we are all supposed to play by them. The rules are not made for the Majority, in fact, their function is principally to protect the Minority because the Majority, as the Minister for Tourism and the Fourth Elected Member for West Bay are fond of saying, 'The Majority rules! They can do what they want'.

Point of Order

Mr. Rolston M. Anglin: On a point of order, Madam Speaker.

The Speaker: Please state your point of order.

Mr. Rolston M. Anglin: Madam Speaker, I have listened carefully to the Second Elected Member for George Town and we are supposed to be debating the Report of the Standing Orders Committee. He is talking about totalitarianism and all this stuff. The Member is way off the topic. He is doing as he did in his submission on Monday; talking about things outside the scope of the exercise and simply playing politics trying to rouse the public.

The Speaker: I have listened to your point of order. The Second Elected Member for George Town I would draw your attention to Standing Order 36(1) and ask that if it is your desire to continue your debate, to do so within the ambit of that Standing Order.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

As a result of this amendment, we are in a situation where we are without the ability given to the Chair; to you, Madam Speaker, which we sought—and given the propensity of the Government to suspend these Standing Orders, our right to dissent and to be given equal time to debate issues is at severe risk.

Dr. the Hon. Frank S. McField: Madam Speaker.

The Speaker: Is there a point of order?

Point of Clarification

Dr. the Hon. Frank S. McField: Madam Speaker, on a point of clarification, I would like to ask the Chair. . .

The Speaker: Would the Honourable Second Elected Member give way to the Minister of Community Affairs?

Mr. Alden M. McLaughlin, Jr.: No, Madam Speaker. If he has a point of order let him make it. I shall shortly conclude and then he can say what he wishes to say.

The Speaker: Please conclude, because under the provisions in Erskine May, if a Member stands to make for elucidation or clarification, one cannot make a quantum leap to go to a point of order unless it is a separate point of order. So please proceed.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, in concluding, for completeness I would refer to the minutes of the Standing Orders Committee of the meeting held on Monday, 18 February 2002. In particular to the Motion which was moved by the Honourable W. McKeeva Bush, OBE, JP, Minister for Tourism, to delete paragraph 3 of the dissenting statement and ultimately as a result of objections raised, the Motion was amended by the same Minister that the entire dissenting statement be rejected.

I wish to record that those who voted for the rejection of the dissenting statement were:

Honourable Juliana Y. O'Connor-Connolly, JP
Honourable W. McKeeva Bush, OBE, JP
Honourable Linford A. Pierson, OBE, JP
Honourable Roy Bodden
Honourable Gilbert A. McLean
Dr. the Honourable Frank McField
Mr. Rolston M. Anglin
Mr. Cline A. Glidden, Jr.
Mr. Lyndon L. Martin

Those who voted against the rejection of the dissenting statement were:

Mr. D. Kurt Tibbetts, JP
Alden M. McLaughlin, Jr.
Ms. Edna M. Moyle, JP
Mr. V. Arden McLean

Absent from the vote were:

Honourable George A. McCarthy, OBE, JP
Honourable David F. Ballantyne,
Capt. A. Eugene Ebanks

Mr. Anthony S. Eden [who was, as I said earlier, off the Island].

Madam Speaker, I believe I have now set the record straight. I believe we all now know what the Members on this side objected to, what they proposed as an alternative, and the view taken by the Standing Orders Committee.

Thank you, Madam Speaker.

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

I doubt that this Government will ever do anything that those on that side [*the Opposition*] will agree to.

A Motion was brought and there was a unanimous decision to carry it to Standing Orders Committee. I do not need to go through all that happened but I can tell you that there was a tremendous amount of time on Friday and Monday on this matter. Approximately over five hours were spent haggling over a supposition on the part of the Opposition.

In the first instance in the meeting they had nothing to say. On the break they came back with a position that we must not cut from four hours to two hours but cut from four hours to three hours on the Throne Speech and Budget Debate. They also wanted to be able to use their terminology 'borrow time', which I believe that is done in the United States House of Representatives. I do not know about it being a Commonwealth procedure or a Westminster form of Government procedure.

Madam Speaker, they wanted an assurance that a Speaker should have the discretion to allow Members to speak longer than two hours. Well, this would be defeating the whole purpose of the action to cut down on the long speeches by the majority of us on every item in this Honourable Legislature to save time. That is the purpose of trying to cut back on the speeches.

However, we are not going to save time, as you can hear, because the Opposition speaks and counts every word; they draw out every item; they complain about every suspension no matter how well meaning it is or how much it is done to facilitate the Government, which must be done. Then there is the Member who just sat down who enjoys calling my Ministry or me into question and talks about democracy—however, whether we like it or not the Majority of Members form the Government.

The Government must be reasonable. That is the tenant of democracy but it does not say anywhere that a government must be kicked in the back; kicked in the face; slapped down every opportunity that the Opposition gets and we sit back and say, '*What nice guys the Opposition are and what bad boys we are as a government!*' It does not work that way. The Majority

is the Government and that is what democracy says in our Westminster style of government, and we must be reasonable.

There is no unreasonableness in what the Government is doing. In fact, we have talked about it for a long time, but no one had the gumption. We all wanted that same opportunity – to get up and make the long four-hour speeches. Who is to say if you give them the right in the Standing Orders to get more time – because they are afraid that the Government is going to stop them – that we are not going to get a Speaker at some point who will say to the Government, "*No you should not have that same right*" if you gave that prerogative to the Speaker.

There is no question before this Honourable House to take away any right of the Minority. The action taken to cut speeches from four hours to two hours binds the Majority (the Government) as it binds the Minority (the Opposition). Equal time will be theirs as it will be ours, no more, no less. That is what is contained in the amended Standing Order.

Madam Speaker, the confusion of borrowing time, what would it do for us? Confuse the whole system! We already have a shortage of staff in this Legislature and an abundance of committees and work that we cannot get to, yet they are stifling the work by talking about borrowing time?

This whole effort of theirs was to confuse the situation because they could not live with the two hours so they gave you several scenarios, knowing full well that the Government could not accept them. They think they are smart but they are no smarter than the Members on this side.

In the Select Committee I said that they could make a report, because that is what it contains; practice and procedure. Also Standing Order 74(h) of the Standing Orders specifically states that, "**A Member of a select committee dissenting from the report of a majority of that committee may, by its leave, put in a concise written statement of his reasons for such dissent, and such statement shall be appended to the report**".

The Committee allowed that by saying first of all that their statement had to be brought back so that it could be considered by the Committee. What else could happen? That is what is supposed to happen.

As a matter of administrative procedure and interpretation, it is clear that the intent of the Standing Order is to ensure that the dissenting member(s) of the Select Committee has the leave of the Majority of that committee to submit such concise written statement of his (or their) reasons for dissent. And that he (or they) would enjoy such leave at all times.

That is to say that the majority of a select committee may give leave to a Member(s) in the minority to submit a dissenting report, and that such consent or leave to submit the dissenting report must continue until such time as the final report is actually submitted or tabled.

It is unfathomable to suggest that where leave is given to submit a report, and such dissenting report is submitted with contents which would cause more division, which is derogatory, inflammatory, or otherwise inappropriately critical of the Majority's position, then it is within the remit of the majority of the Select Committee pursuant to Standing Order 74(h), in my opinion, to withdraw its leave consent, et cetera, for such dissenting report to be appended to the final report prior to the tabling of the Majority report.

To suggest that the majority of the Committee would not have this ability to withdraw the said leave in the circumstances outlined would be to render the Standing Order impracticable, insofar as dissenting Members would be completely at liberty to state in whatever manner desired, without the Majority of the Committee having any recourse whatsoever no matter how incorrect, divisive or inappropriate such dissenting report maybe.

Now, the Second Elected Member from George Town who somehow thinks that he is the 'Law Bible' in this House and who is really 'wet and green behind the ears, maybe green all over' must learn practice and procedure first. That is what binds this Legislature and all Parliaments.

Further, to suggest that the Government may, by suspension of Standing Order 32(6), abuse the time limit set out therein by allowing itself and its Members substantial extensions of time permitted for speaking while limiting the position of the Opposition to sufficient debating time, is to attribute the Government with undemocratic practice and label the Government as unfair.

Such a statement is—well, Madam Speaker, there you go [*inaudible comment in background*] — that is the type of person we have to deal with. Such a statement is further inflammatory as it seems to suggest that the Honourable Speaker's discretion in the matter of the suspension of the Standing Order will somehow be fettered. I think that is the most serious and inappropriate contention.

It was agreed at that meeting on Friday that the setting report of the minority Members of the Select Committee would be considered by the Majority of the Committee. Clearly, such consideration was to be given pursuant to Standing Order 74(4)(h) insofar as the Committee then intended to determine whether the dissenting report would be appended to the final report to be tabled. Had there been no discretion in the matter and no opportunity to consider the substance of their report, no opportunity for consideration would have arisen in the first place.

So, Madam Speaker, accordingly, Standing Order 74(4)(h) (read together with the fact that the meeting of Friday, 15 February 2002 provided for a consideration by the Committee of the dissenting report, and given the inflammatory content of the third paragraph of the dissenting report), gives clear substantial equivocal basis for the majority of the Select Committee to reject the appending of the dissenting

statement prior to the tabling of the report of the Select Committee by withdrawing its leave so to do. It is absolutely clear and the Members on that side may huff and puff as long as they want, but this House of stone stands! And I hear them groaning, but they can continue to do that too.

Madam Speaker, the Member has once again tried to deride and cry down the Government by talking about the suspension of Standing Orders. But those Standing Orders, such as giving of notice to be able to take a matter through all of its stages, have not been done for the first time. I do not know how many times it was done during last year alone, but it was done a lot of times. This is my fifth term in this House and you can believe there have been many times when suspensions have been taken on many different matters, but never in recent times to allow anyone to speak longer. That is the *crux of the matter*. He would like everyone to believe that the whole legislature system is crumbling after he stopped running from the Back Bench on 8 November 2001. Madam Speaker, it is hard to believe, but I can tell you it will not happen.

So, I do not think that any right of the Minority is abused or taken away, or fettered in any shape or form, except the right to speak for four hours. And that right is also taken away from all of us on this side, every one of us. Now, I will wait to hear what the others have to say, but I do not think the Government is doing anything wrong here today. So, with that we would hope that the Report stands. Thank you very much, Madam Speaker.

The Speaker: Does any other Member wish to speak?

The Second Elected Member for the district of West Bay.

Mr. Rolston M. Anglin: Thank you, Madam Speaker.

This Report which is now before us has come about because there was a general feeling that the workings of the House needed to be more efficient in order to deliver to the public of these Islands more effective governance.

Certainly, most Members would agree that we do need to have a reduction in the time. When you set the parameters, what might ordinarily take a person four hours to say, if persons know they only have two hours they more than likely will get it all said. In my campaign manifesto on page 12, we campaigned on this exact issue saying that we would try to improve the efficiency within the Legislature by reducing the debate to two hours per Member.

Madam Speaker, there was much said by the Second Elected Member for George Town, some of which, if not replied to, would leave within the minds of those who do not understand the exercise that brought about this Report, a certain opinion or conclusion. In my humble submission that may not be accurate.

In fact, I call on the Honourable Minister for Education to quickly try to get within our school system some teachings of the way in which our country works.

For if we leave it up to the Second Elected Member for George Town, by the time we are through in November 2004 the public will be so confused that they would not know whether they are coming or going.

The Speaker: Is that your opinion Honourable Member?

Mr. Rolston M. Anglin: That is my opinion, Madam Speaker.

First of all, there was mention made to suspensions of Standing Orders. I believe it is true to say that the Standing Order currently being amended was not suspended in the year 2001. Where is the precedent, as lawyers would say, that led that Member to infer that other suspensions of Standing Orders would imply that the Government or any other government would suspend this particular Standing Order? In fact, I would dare say that if we checked the records this particular Standing Order has probably been waived once or twice over the last decade.

Madam Speaker, on the issue of borrowing time, those in the listening public who do not understand parliamentary practice need to understand that in places where time is borrowed, speakers, in comparison to those in Cayman, have an insignificant amount of time to speak in the first place. In the United States you can borrow time but each member can only speak for five minutes. That is why you borrow time because another Member may need to speak for, say, a half hour which would be a long time under their system.

Certainly we get a view of what the Opposition would seemingly want to provide to this country in terms of leadership if they were the Government. This shows a complete lack of understanding of parliamentary practice and procedure to imply that in a jurisdiction where there are two hours already for a Member to debate, that we are now going to allow the time to be borrowed.

Where time is borrowed, there is an insignificant amount of time allotted to Members in the first instance in relation to Cayman. The Members in those places, yes, they borrow time because their time is extremely short. Every other territory that hears of the speaking time in the Cayman Islands has a quiet laugh because they see it as being so ridiculously long.

Madam Speaker, the Standing Orders of this House should be clearly understood. They are the rules by which this House operates. They are not designed primarily to protect Minority Members. Provisions are in Standing Orders to protect every single one of us. There are provisions in these Standing Orders for us to make personal statements; to make statements of clarity; for Ministers of Government to make statements; there are rules of debate; there are rules for committees; the Standing Orders Committee, the Public Accounts Committee, the Business Committee, the House Committee. They are rules!

The inference by the Second Elected Member for George Town is that the Standing Orders, as he

said, were there to protect the Minority. So, what will the public believe if we are here amending them? That the Majority of the Standing Orders Committee must be, if you are amending them, taking away that protection?

There is also another matter that the Member brought up when he said that some Members of the Committee seem to have fundamental problems with the Minority report. I was one of the Majority Members who voted for that not to be appended to the report. He read the list of persons who voted to not have that included in this report, I think it was some nine persons. All, not some, Members had a fundamental problem with the dissenting report.

I can say here in the record that I do have a fundamental problem with the way in which the Second Elected Member for George Town gets up in this House filibusters and misleads the public with this nonsense! I have pointed out three points, the foundation of his debate, none of which, in my mind, makes any sense and some of which are misleading. I repeat them, Madam Speaker. Firstly, Standing Order 32(6) was not waived. It was never requested to be suspended during the year 2001. So, in my humble submission, there is no reason for anyone to infer that this is now going to be the case. I challenge that Member to do the research and report back to this House how many times *that* Standing Order has been waived in the last ten years.

The issue of borrowing time has to do with jurisdictions where there is an insignificant amount of time anyway, and so when the parties involved seek to have one particular member speak on an issue, they do borrow time.

As I said, if you speak to most people in the Commonwealth, their Parliament allows one quarter of an hour of debate time, that is, 15 minutes. We are lowering debate time from four hours to two hours. Two hours is still a lot of time.

Madam Speaker, I have never been accused of being at a loss for words. I could easily have debated matters in this House beyond the four hours. I have gone the four hours on issues already. I could have said a whole lot more relevant matters in regards to certain of those Motions, but did I go and say to the Majority, "*Well you know I could go on for another half hour or another hour, let us suspend the Standing Order?*" No! This Standing Order is one that I think all reasonable Members of this House recognise as one that . . . Listen, there is no need for any suspensions; two hours are still more than enough time to debate any issue.

I would also like to say that where there is properly organised party politics you find that each Member of those parties gets up and makes a point. That is why they can survive with allowing their Members to speak for only five minutes—because each Member gets up and makes a separate point.

I believe there are still enough Members in this House to properly debate any issue that comes before

it within two hours, per Member. That is more than enough time. There are five Members who are not on the Government Bench. Five times 2 make 10. That makes 10 hours for them to speak on a particular matter.

Madam Speaker, I would like to put this whole matter into some semblance of perspective. Under what was Standing Order 32(6), each Member could speak for four hours. Under the Standing Orders, Back Bench Members can bring three Motions per sitting to this House. There are 18 Members in this House. If 18 Members spoke for four hours that would be 72 hours. We work here for some four-and-a-half hours a day, that equates to somewhere around 15 days if each Member utilises his four hours. If each Back Bench Member were to bring three Motions, that would be 30 Motions. Thirty Motions, times 15 days, add up to a lot of days.

Within the provisions of our Standing Orders, if every Member brought three Motions, and if every single Member debated for four hours, we would be here for over a year. That is how we would run the country. Needless to say, there would be no running of the country. People do not go to the polls every four years to elect us for that. They elect us to come here to be concise and do their business: we are here at the will of the people. As I said earlier, this was in my campaign manifesto. So, I think it is clear that this is one of the points that I was elected on. The people want the country to be run more efficiently. We see that there is a need to improve in this particular area.

In conclusion I would like to say that the Report is the report of the Majority of the Committee. Nine persons voted against the dissenting Report. I think that the listening public would clearly understand that there is a need for us to be more efficient.

I admit I have spoken for four hours. I seconded this Motion. Two hours is more than enough time. There has been no infringement on the rights of the Minority. There is nothing here that would lead us to conclude accurately that there is anything undemocratic about this Motion or this Report. In fact, it is getting more towards what democracy should be.

It should be about efficient representation to constituents. It should be about us being in and out of here in a timely manner; being effective; being out there in our communities with our people offering them the representation that they deserve. Not to be in here filibustering; not to be in here misleading the public, but to be out there doing work for them. That is what we are being paid to do. Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?
The Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I rise to debate the Motion that is currently before us. That is to accept the Report of the Standing Orders Committee. I am cognisant of the fact that I am allowed four hours now, but I will not take that. I also recognise

that I am *'wet behind the ears but I am certainly not green all over: today I am in grey.* (Members' laughter) When I was elected to this Honourable House I too campaigned on the basis that time for debate must be shortened. I will not retract that because, other than being here, there is need to get on with the work of the country that is required of the 18 Members of this Honourable House. So much so, that I further proposed—and I had recent discussions with Members of the United Democratic Party, particularly the Minister for Health—the possibility of this House sitting later in the day to facilitate the Ministers and Official Members getting the work done. Of course, there are other issues that need to be addressed, but I say that only to point out that I support efficiency and effectiveness, which reducing the hours of debate in this Honourable House would bring about.

I did not, and I do not believe any other Member of the Opposition has any fundamental problem with reducing the hours of debate. My dissent was on the basis that there are times when one may find the need for an extended debating period and in those circumstances I still believe that the Presiding Officer should have the discretion, once petitioned, to extend it or not to extend it.

Madam Speaker, we are talking about how much time each Member is allotted (the two hours) and while I am no mathematician, I do know that if the five Opposition Members were to speak for two hours each on any issue that would equate to ten hours. However, if the Opposition elected to appoint one individual to speak on their behalf and the Presiding Officer has the discretion to extend that, for say, half hour, that would only be two and a half and there would be no repetition.

So, what the Opposition is driving at is to get that provision in to further save time and it would also save time on the part of the Government. That is how many parliaments are conducted.

The Second Elected Member for West Bay talked about the borrowing and the adding up of time, comparing it to United States of America and their Parliament, saying how much time we would be wasting in here if everyone exercised the right to bring the allotted amount of Motions and the likes. I would like to draw to the attention of this Honourable House that yes, in America there is a specific insignificant amount of time for debate. I believe it is somewhere around five minutes on an individual basis if they all speak.

Let us do some mathematics: I will show that you cannot compare the Cayman Islands with America when it comes to an individual debate because the House of Congress has 100 Senators. There are 500 minutes on each debate, eight days. The House of Representatives has approximately 324 members. So, on each debate, if the 324 members were given five minutes that would be 27 days. The reason it is lower there is because Parliament is bigger. Here Parliament is made up of 18 Members which justifies having the allotted time a little longer.

Madam Speaker, I totally agree that in other jurisdictions within the Caribbean it is even lower. For instance, in the Jamaican parliament it is one hour, but upon petition from the Leader of the Government, or the Leader of the Opposition, the Presiding Officer has the discretion to extend by half-an-hour. That is all we were asking. When we reflect on the past year there was no time in this Honourable House (that I am aware of, other than the Throne Speech and Budget Address), that the Majority of Members in this Honourable House spoke for four hours—very few times. So, there is no evidence to prove that anyone wants to stand up here for four hours under normal circumstances.

However, the provision that the Opposition wanted to ensure was that the discretion was available and that it is not subjective to the Majority giving it, which is how it is by the suspension of the Standing Orders.

I heard the Minister for Tourism say that this is the 'House of stone'. I say to the Minister for Tourism, the Leader of Government Business, that an injustice is an injustice and 'majority might does not make majority right'. I did not make that up. A very learned individual by the name of Robert A. Dahl in his book on *Democracy* said that.

I understand how this works. No one needs to tell me how the Majority and the Minority work. Obviously, the Government is the Majority and it is the Government's job to run the country. In so saying, the Government must have its way, but the Opposition (Minority) must also have its say. When the Minority's say is encroached upon and prevented, then we are no longer a democracy.

Madam Speaker, when the political leader of this country can get up in this Honourable House and say that this is a 'House of stone', it is not good for our people. I wonder how the Government thought that we, the five Members on this side of this Honourable House, came to be here. This is called representative government in this country. We went to the polls also and we were elected on the same basis that they were. We must be respected as such and when any man or woman or any Member enters into . . .

Point of Order

Mr. Lyndon L. Martin: On a point of order, Madam Speaker.

The Speaker: Please state your point of order.

Mr. Lyndon L. Martin: Madam Speaker, under 36(1) *Relevance*, the debate here today is on whether the time for debate should be two hours or four hours, not on the fundamentals of democracy.

The Speaker: I take your point Honourable Member. As a matter of fact, I was just at the point of calling that to the Member's attention. Honourable Member for East End, I would ask you to keep within the specific

sphere of Standing Order 36(1) and please proceed accordingly.

Mr. V. Arden McLean: Thank you, Madam Speaker. But, the Minister for Tourism got up here and started talking about the Majority and the Minority.

The Speaker: Honourable Member, please if I may proceed. I have asked for you to continue in that vein and specifically put, I would ask that you refrain from bringing in any matter that is irrelevant. I have already ruled on what I thought was irrelevant so please do not re-enter that arena. Please continue.

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

I was going on to say that whenever a dissenting report is submitted by any Member of this Honourable House it must be respected in that vein. The mere fact that a dissenting report we submitted asks leave of the Standing Orders Committee to submit a dissenting statement, that dissenting statement was not to dissent to the reduction. With your permission I would like to read it.

Point of Order

Dr. the Hon. Frank S. Mcfield: Madam Speaker, on a Point of Order.

The Speaker: Please state your point of order.

Dr. the Hon. Frank S. McField: Madam Speaker, the point of order has to do with *relevance*. The Member is now speaking about the procedures in the Standing Order Committee. We are here discussing the report of the Standing Order Committee and if we are to discuss the issues in the Committee then we might as well go back to the Committee.

The Speaker: Thank you, Honourable Minister Member for East End. I draw your attention to Standing Order 74 (h). I understood when you were speaking that you were doing so on behalf of others not dissenting to the report as such and I would ask if that is your position. Could you please repeat what you said?

Mr. V. Arden McLean: Madam Speaker, I said that we (the other Members who were dissenting with me) were not dissenting to the hours, we were dissenting to the Report because we had a difference in opinion and we wanted it to be known.

The Speaker: Honourable Members, I have listened to both sides and I have looked since Friday in particular, very carefully at Standing Orders 74(4)(h) and I would not only rule that it is irrelevant but I should also wish to state that *dissent* from the Report is an inherent right of any Member of the Standing Orders Committee. As I understand it and therefore rule, leave is for a concise written statement to be put in. But first there is a pre-

condition that there is dissent to the report and the report was a specific item emanating out of a specific Motion.

So, it is against that background that I am asking you to keep it relevant to the Motion that was passed for that specific amendment of the reduction from four hours to two hours, and it is against that background only that I rule on the relevant aspect.

Mr. V. Arden McLean: Madam Speaker, I requested your permission to read the dissenting statement.

[Chattering in background]

The Speaker: Order!

Please continue Honourable Member.

Mr. V. Arden McLean: Madam Speaker, I sought permission from your good self to read the reasons for the dissenting statement the lack of the Opposition. . .

Point of Order

Dr. the Hon. Frank S. McField: Madam Speaker.

The Speaker: Yes, Honourable Minister. Do you have a point of order?

Dr. the Hon. Frank S. McField: A point of order, Madam Speaker.

The Speaker: Please rise.

Dr. the Hon. Frank S. McField: The Honourable Member from East End was still on his feet so I delayed my . . .

Madam Speaker, again the point is one of relevance. The Member is asking the Chair to allow him to read the dissenting statement, which means that the Committee's rejection of that statement being part of the debate is irrelevant, then the Committee might not have met and made that decision. What we are here to oppose or to agree on is the question before the House that the report of the Committee be accepted by the House.

The Speaker: Thank you, Honourable Minister. Leave is not given to read any aspect of that dissenting report that has already been dealt with within the Select Committee. Please proceed.

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

I draw to your attention that the minutes have been laid on the Table of this Honourable House and are now a public document. It reads as follows, "**That a Motion was moved by the Honourable W. McKeever Bush, OBE, JP, to delete paragraph 3 of the dissenting statement, objections were raised and the Motion was amended by the same Minister that the entire dissenting statement be rejected**". It

is on that basis that I was moving in that direction. But I just wanted to draw the attention to that particular section of the minutes, which is now a public document.

I heard the Tourism Minister say that it was 'derogatory' and 'inflammatory' towards the Government. I certainly do not see anything inflammatory or derogatory about submitting a dissenting statement saying that...

Point of Order

Dr. the Hon. Frank S. McField: Madam Speaker, on a point of order.

The Speaker: Please state your point of order Honourable Minister.

Dr. the Hon. Frank S. McField: Madam Speaker, I do apologise. I am not trying to interfere, but I do think that it is important that the Member shows a certain respect for the ruling. And that he moves away from trying to use 'trickery' to introduce an argument in a debate that has to do with the question about whether or not the House accepts the report from the Standing Orders Committee: not whether the Standing Committee was right or wrong for not dealing with the dissenting report.

We are aware that the minutes do say that there was dissent but we are also aware that the Committee did not see fit to include that dissenting report as a part of the report to be debated here now. And I would ask that you ask the Member, humbly, to move away from that type of discussion.

The Speaker: Honourable Minister, I have already asked the Honourable Member for East End not to get into the contents because it was dealt with in an ordinary amount of time in the Select Committee. It was rejected by the Majority through the democratic process and I will not through trickery or otherwise entertain it by any Member, be it Opposition or Government. Please proceed.

Mr. V. Arden McLean: Madam Speaker, thank you.

I really and honestly was not trying to get back into that area because I respect your good self and your ruling. I was merely going to say, before I was interrupted on a point of order by the Minister for Community Services, that if the Opposition dissents to a report which is moving the Standing Orders debating time from four hours to two hours there should be some discretionary powers attached to it. I cannot see anything that is derogatory or inflammatory to the Government in that regard.

Point of Order

Dr. the Hon. Frank S. McField: Madam Speaker.

The Speaker: Honourable Member, please take your seat. I have made a ruling in that regard and I would

draw your attention to Standing Orders 40 and 41 and ask you to take due cognisance. Please continue with your debate.

[Cross talk]

The Speaker: Order, Members!

Mr. V. Arden McLean: Madam Speaker, I know the objectives of the Government. It is a time-proven practice of raising objections on relevance to throw one off.

I think the listening public needs to know that all Members of the Opposition, like the Government, are in agreement with being more efficient in here. I think it is incumbent upon us that they know that it was not any trickery, or anything of that matter, on behalf of the Opposition to try and stall anything that was proposed in the Motion brought by the Fourth Elected Member for West Bay. Madam Speaker, when the majority speaks the majority rules.

What the Opposition was trying to do was to propose a section to the amendment similar to that in Standing Order 38 (Closure of debate) where the Presiding Officer has the discretion when a Motion is moved that the question . . .

Point of Order

Mr. Rolston M. Anglin: Madam Speaker, on a point of order.

The Speaker: Honourable Member, please state your point of order.

Mr. Rolston M. Anglin: Madam Speaker, we are here to debate the report of the Standing Committee of Standing Orders, not Standing Order 38. That was not included in the Report. The listening public needs to understand that what the Member for East End just said is a total lie. Points of order are for points of order in this House, not to stall any Member. In fact, any member of the listening public who is fair . . .

The Speaker: Can you please state whether or not that is your opinion Honourable Member?

Mr. Rolston M. Anglin: That is my opinion, Madam Speaker. Those listening will obviously see why we are reducing the debate time because the Member from East End, in my humble opinion, is sitting here wasting the time of the tax payers of this country. It is tedious repetition and irrelevant. If the Member has anything further to give to the report . . .

Point of Order

Mr. V. Arden McLean: On a point of order, Madam Speaker.

The Speaker: Honourable Member, for East End, let me just hear the conclusion and then I will come to your point of order. We cannot have two points of order at the same time. Please continue Second Elected Member from West Bay.

Mr. Rolston M. Anglin: Madam Speaker, the debate is on the Report of the Standing Orders Committee. It is not on Standing Order 38. Therefore, the Member from East End is introducing a matter that is irrelevant to the debate.

The Speaker: Thank you, Honourable Member. I will rule that it is irrelevant. I shall now call on the Member for East End to raise his point of order.

Mr. V. Arden McLean: Madam Speaker, the Member is imputing improper motives when he said that what I said was a lie.

Mr. Rolston M. Anglin: Madam Speaker...

The Speaker: Member for West Bay, just give me one moment please. I have listened to the terminology that you have used and I would ask that you be given time to give justification for that. If it is not a position that is factual, then I will ask you to withdraw it. So please proceed with your justification.

Mr. Rolston M. Anglin: Madam Speaker, points of order in the Standing Orders are for points of order in the House. The Member for East End said that points of order are used by the Government to stall and to interrupt speakers. If we want to go back to the tape we can do so. That is what the Member for East End said and it is not factually correct.

The Speaker: Honourable Member, it has been deemed that it is unparliamentarily to use the terminology 'lie'. You have opted to use other words that are representative of a nonfactual situation but I would ask you to withdraw the specific word 'lie' as it related to the Honourable Member for East End.

Mr. Rolston M. Anglin: Madam Speaker, I withdraw the word 'lie'. It was nonfactual.

The Speaker: Thank you. The Leader of Government Business, is there a point of order?

Hon. W. McKeever Bush: Madam Speaker, I just want to say to Members, that we are making a mockery of what we are trying to accomplish. Everybody has to have his say but when are we going to be reasonable? We are trying to cut down on the time because of everything that is happening. I am sure that both Government and the Opposition need time. Certainly, the staff of this House have more than they can take, so I am asking all Members to let us take into consideration

what we are trying to do because it is making a mockery of what we have set out to do. Look at the time. I know we started late and I apologise for that. It could not be helped because of the reports that had to be tabled. We are really going far with it.

The Speaker: Honourable Member for East End, if it is your desire please continue.

Mr. V. Arden McLean: Thank you, Madam Speaker. To show my reasonableness and agreement with the Member for Tourism, I will close. I will say, however, that we will just have to see, Madam Speaker, how it goes. There will be times if it is necessary for us to bring a motion, or petition your good self to suspend the Standing Orders. The Minister for Tourism, the Leader of Government Business, has said that we will be supported in these endeavours. We will wait to see if that will be done.

Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Member. Does any other Member wish to speak?

The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, I understand that we need to get on and do our work, but I think it would be a great disservice to the public if we stopped at this particular note without someone trying to, as clearly and precisely as possible, explain what this debate has been about.

This debate has been with regards to a Private Member's Motion that was brought to reduce the time spent debating a specific topic from four hours to two hours. Most of us, including the Opposition, agree that four hours is sometimes lengthy. And when you have to sit and listen to the Members in here speak for four hours, even those of us who enjoy speaking for four hours realise that when we have to listen to it, it becomes tedious.

So, I think that we all in this House agree with the general public that it would be a good thing to reduce the speaking time from four to two hours. Why it has become a Motion that is being used to accuse others of being unfair and undemocratic only speaks to the intensity of the politics between the two sides in this Honourable House at this particular moment.

I would like to reiterate that what we are going to vote on now is that the time be reduced from four hours to two hours. And I do not think that anyone who has spoken here today has been in opposition to that and that is what we should have been speaking to from the very beginning.

Thank you.

The Speaker: Does any other Member wish to speak? If no other Member wishes to speak then I should now put the question. The question is that the recommen-

dation contained in the report of the Standing Orders Committee, be adopted.

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

Ayes.

The Speaker: The Ayes have it.

Hon. W. McKeever Bush: Can I have a Division please?

The Speaker: Certainly.

Madam Clerk, please call a Division.

Division No. 1/02

Ayes: 9

Hon. W. McKeever Bush

Hon. Gilbert A. McLean

Dr. the Hon. Frank S. McField

Hon. James M. Ryan

Hon. David F. Ballantyne

Hon. George A. McCarthy

Mr. Rolston M. Anglin

Mr. Cline A. Glidden, Jr.

Mr. Lyndon L. Martin

Noes: 3

Mr. Kurt D. Tibbetts

Mr. Anthony S. Eden

Ms. Edna M. Moyle

Absent: 3

Hon. Linford A. Pierson

Hon. Roy Bodden

Capt. A. Eugene Ebanks

The Speaker: On a point of clarification: Second Elected Member from Cayman Brac, were you in your chair at the time? Madam Clerk did not see.

Mr. Lyndon L. Martin: Madam Speaker, I was in at the time of the call for the division. I was in my chair.

The Speaker: Please proceed Madam Clerk.

[Pause]

The Speaker: Honourable Members, there is still a question as to whether or not the Second Elected Member for Cayman Brac was in his chair when the question was put. Could the Leader please clarify?

Hon. W. McKeever Bush: Madam Speaker, as you know we have a problem with the two microphones – the one belonging to the Honourable Minister of Community Services and the one belonging to the Second Elected Member for Cayman Brac. He said 'Aye'. The Clerk was writing and she did not look up. That was not heard because the microphone was not on. You first have to switch on both microphones. He was in the chair during the time of the calling of the division.

Ms. Edna M. Moyle: Madam Speaker, if I may.

The Speaker: Yes, Honourable Member for the district of North Side.

Ms. Edna M. Moyle: When you asked, the Second Elected Member [for Cayman Brac and Little Cayman] he said he was in his chair for the *division*—that is not being in the chair for the *question* when it was put, which is the same position that the Second Elected Member for George Town and the Member for East End were in. They were not in their chairs when the question was put. So, they were not asked.

Mr. Lyndon L. Martin: Madam Speaker, could I just address that issue?

The Speaker: Please do.

Mr. Lyndon L. Martin: Madam Speaker, I was in my chair at the time of the question and at the time of the division and I did answer when called for the vote.

Dr. the Hon. Frank S. McField: Madam Speaker.

The Speaker: Yes, Honourable Minister.

Dr. the Hon. Frank S. McField: Madam Speaker, the Second Elected Member for Cayman Brac did leave the room but he was in the room at the time of the question. He left the room after the question was put and came back before the division. He left to call the Minister for Education.

The Speaker: Honourable Clerk, I am entirely in the hands of the House because I did not see what the position was either as it related to the Member for George Town, East End or Cayman Brac. I would simply hope that we would believe each other in such a thing. What I would propose to do is go through each Member and all those who saw the Second Elected Member for Cayman Brac at the time the question was put to raise your hands at this time. It is unfortunate that we have to take such a route but I would ask. . .

Point of Procedure

Hon. Gilbert A. McLean: Madam Speaker, on a point of procedure. I think a technical point is being argued here and for the sake of recording this very important and historical vote, I would ask that whether or not a Member was outside at the time the vote was taken, if you will, Madam Speaker—and I think that the authority lies with the Chair—call a new vote and record the vote of every Member that is presently here, including Members of the Opposition who may not have been here. I understand that someone's name was not called because the person was not here. We are all here now. I would ask, Madam Speaker, if you would allow that.

Hon. W. McKeeva Bush: Madam Speaker...

The Speaker: Honourable Leader.

Hon. W. McKeeva Bush: I would like to agree with the Honourable Minister of Health so that every name could be recorded in this vote and there would be no question as to anyone being left out. If you could so use your discretion I would support that.

The Speaker: Thank you, Honourable Members. It gives me great pleasure to see that after such protracted debate we can conclude it with an agreement. I would so rule that all Members would have an opportunity to exercise their inherent right of voting on this most important piece of legislation.

Hon. W. McKeeva Bush: See how much we like you?

The Speaker: I should put the question once again. The question is that the recommendation contained in the report of the Standing Orders Committee be adopted.

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

Ayes.

The Speaker: The Ayes have it.

Hon. W. McKeeva Bush: Can we have a Division, Madam Speaker?

The Speaker: Certainly, Mr. Leader. Madam Clerk, please call the Division.

Division No. 2/02

Ayes: 9

Hon. W. McKeeva Bush
Hon. Gilbert A. McLean
Dr. the Hon. Frank S. McField
Hon. James M. Ryan
Hon. David F. Ballantyne
Hon. George A. McCarthy
Mr. Rolston M. Anglin
Mr. Cline A. Glidden
Mr. Lyndon L. Martin

Noes: 5

Mr. D. Kurt Tibbetts
Mr. Alden McLaughlin, Jr.
Mr. Anthony S. Eden
Ms. Edna M. Moyle
Mr. V. Arden McLean

Absent: 3

Hon. Linford A. Pierson
Hon. Roy Bodden
Capt. A. Eugene Ebanks

The Speaker: The results of the Division are 9 Ayes, 5 Noes and 3 Absentees. The Ayes have it.

It is now my proposal to take the luncheon break. We will reconvene at 2.45 pm.

Agreed by majority: That the recommendations contained in the Report of the Standing Orders Committee to consider the proposed amendment to Standing Order 32(6) of the Legislative Assembly Standing Orders (1997 Revision) be adopted.

Proceedings suspended at 1.45 pm**Proceedings resumed at 3.20 pm**

The Speaker: Proceedings are resumed.

The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I believe we need to suspend the relevant Standing Order so that questions can be taken after 11 o'clock.

The Speaker: Would you wish to move it?

Mr. Alden M. McLaughlin, Jr.: No, Madam.

The Speaker: Does any Minister/Member, seen that we have passed the hour of 11 o'clock, wish to move the suspension of Standing Order 23(7) and (8) so that the Members can ask their questions beyond the normal question time?

Honourable Minister for District Administration.

Suspension of Standing Order 23(7) and (8)

Hon. Gilbert A. McLean: Madam Speaker, I beg to move the suspension of Standing Order 23(7) and (8) so that questions can be taken after the hour of 11 o'clock in good faith showing the value of suspending Standing Orders to carry on the business of the House.

The Speaker: Thank you. The question is that Standing Order 23 (7) and (8) be suspended to allow Question Time to begin and indeed continue beyond the hour of 11 am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended in order for Question Time to continue beyond 11 am.

QUESTIONS TO HONOURABLE MINISTERS AND OFFICIAL MEMBERS

The Speaker: Second Elected Member for George Town.

Question No. 1

No.1: Mr. Alden M. McLaughlin, Jr. asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration what are the terms of the agreement to retain the services of Andrew Mitchell, QC, in connection with the prosecution of the Euro Bank matter and, specifically—

- (a) when was he retained
- (b) what is his brief

- (c) on what basis is he being paid, ie, hourly rate, brief fee or otherwise
- (d) how much has he been paid to date; and
- (e) from what source of funds is he being paid.

The Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: (a) Mr. Mitchell was retained in April 2000

(b) His brief is initially to advise generally on the Euro Bank case and further to advise on the gathering of evidence with a view to the case being presented in the Grand Court. Thereafter to have conduct of the trials and matters incidental thereto.

(c) He is being paid by the hour, or a daily court rate (when in court), there is no brief fee, no retainer. However, he is paid (in addition) airfares and accommodation.

The rates are:

- i. £3,200 per day based on £400 per hour with no further charges per day unless the hours worked exceed 8 hours in any day.
- ii. Reasonable expenses to include hotel or rental of an apartment, £50 per day general living expenses and business class travel.
- iii. No charges for weekends unless the days are worked or on travel days.
- iv. Travel days at 50 percent of the daily rate £1,600.

(d) He has been paid to date £374,463.66.

(e) Initially he was paid from the Attorney General's professional fees vote, and thereafter in 2001 he was paid from funds obtained by Government as part of its asset-sharing agreement under the Mutual Legal Assistance Treaty (MLAT).

The Speaker: Are there any supplementaries?

Second Elected Member for the district of George Town.

Supplementaries

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I wonder if the Honourable Second Official Member is able to give an indication of how much more it is likely to cost in terms of retaining Mr. Mitchell through the trial, which I believe is scheduled to start in May.

The Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: Thank you, Madam Speaker. Mr. Mitchell was retained using the solicitors in London with whom the rates of retainer were negotiated to avoid anyone here, including myself, directly

negotiating these matters, so I feel that the House should be aware of that.

The solicitors concerned are from a Firm called Tarlo Lyons. I would just mention that they worked with Mr. Mitchell before, and both Mr. Mitchell and this firm have been referred to us because they had been involved in money laundering cases in Turks and Caicos Islands. But to answer the supplementary question directly, an estimate was provided by Messrs Tarlo Lyons in June 2000 of the cost of the entire case right through to appeal, if necessary.

Those estimates have been revised and the estimate of costs outstanding in relation to the forthcoming trial, and I just want to make sure that I have this correct: this is in Pounds Sterling, in a figure of £450,200. That is allowing for trial preparation of 25 days, 100 court days, 10 travel days, an airfare round trip and subsistence. These are estimates of course. Some of the trial preparation has already taken place and that is confirmed by the case controller on the Euro Bank prosecution, which is another safeguard. In that, the professional fees that are incurred are required to be signed off by the case controller as having been appropriately incurred. I am grateful to both case controllers present today and for the information they have provided.

Just to complete the story: this House approved as part of the budget of the Legal Affairs Portfolio, a figure which represents the total of the figure that I have just mentioned and the figure for another related prosecution. Thank you.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I am grateful to the Honourable Second Official Member for that explanation because we were unable, during the course of Finance Committee, to ascertain those details hence my question.

I wonder if the Honourable Second Official Member can say if these projected costs for the £450,000 thereabouts, estimated to continue the retention of the services of Mr. Mitchell, are those inclusive of the cost of the solicitors to whom he referred or is that an additional expenditure that is not covered by those amounts?

The Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: Thank you, Madam Speaker.

Initially we retained solicitors because we had no experience of running this kind of case. However, we were able to effect some economies in that regard and they simply continued in their role of advising on levels of fee. In fact, we employed the solicitor in question directly and saved a considerable amount of money as a result. Maybe there is some solicitor type

cost but our aim has been to try to provide the solicitor type support from in-house. The case controllers are really performing that kind of role and there has been less need as time has progressed.

We have made it a specific objective to try to learn the skills involved in running these cases so that we do not continue to incur this kind of expense. However, since it is the first-off case and it is an important one, it was thought prudent to hire an expert (money laundering council) and also to have initial solicitors support. That support has now fallen away and is no longer considered necessary. Thank you.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I want to be sure that I understand the Second Official Member clearly. Am I understanding you, Sir, to say that the instructing attorneys for this case are/and are going to be at the trial, members of the Legal Department?

The Speaker: Second Official Member.

Hon. David F. Ballantyne: That is precisely correct. It may be that members of the Legal Department will also appear as Counsel. That is confirmed by those sitting behind me. The object of this is not to just conduct prosecutions; it is to build up our expertise in the running of these kinds of cases. One would hope they would not be frequent, but when they do occur they do need to be dealt with and they are fairly complex and lengthy undertakings.

Clearly we want to try to minimise all of that and the more expertise that we get and the better equipment that we have, the more able we are to do that.

I would simply add in relation to that issue, that from the solicitors' support that we have had, we took advice about document management systems. The Financial Reporting Unit (FRU) installed that kind of equipment and it has made the task of evidence-gathering considerably simpler. It has also facilitated the disclosure of information to the defence on CD and will have facilitated when the trial is conducted, the presentation of the evidence on the computer screen. Thank you.

The Speaker: The Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Just to ask the Second Official Member if any efforts were made to retain Counsel for this case locally (that is Queen's Counsel) or within the Caribbean?

The Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: Madam Speaker, the retention of Andrew Mitchell was a deliberate choice because of the expertise in anti-money laundering.

Without any disrespect to the local Queen's Counsel, I am not sure that either of those at that time would profess particular expertise in that area. And secondly, Andrew Mitchell was already involved in the region both in Turks and Caicos and in Trinidad and therefore had been acknowledged as something of an expert in the region.

One has to take a view about these things. My view was that we should do all that we could to try to ensure the success of these prosecutions. And given Mr. Mitchell's reputation in the United Kingdom, the fact that he was referred to us by colleagues in Turks and Caicos Islands, where he was funded by the British Government on a large case they had there, and given his international standing, he seemed to be an appropriate choice. It is not every lawyer who would hold himself out (as I am sure more than one person on the other side would acknowledge) as an expert in particular areas.

That is not to say that we would not consider it appropriate in the future to retain lawyers from within the region. But my preference would be that we do not retain any at all—that we seek to prosecute these cases ourselves. And that is why we have a local Crown Counsel as case controller. That is why we are trying to pick up on the experience of running these cases.

As I said at the outset, this is not intended to be a continuing arrangement but it is important when we have such a large case, that we apply what are thought to be the best resources to it, at least in the first instance. Thank you.

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

Mr. D. Kurt Tibbetts: Thank you. Just for purposes of clarity: Where in the substantive answer, under (b) it says, “. . . Thereafter to have conduct of the trials and matters incidental thereto”. Could the Honourable Second Official Member explain, whether that means that the gentleman will be dealing with the trial himself and if that is the case who will be instructing him with regards to the trial?

The Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: Yes, Madam Speaker, I can confirm that Andrew Mitchell, QC, will be leading for the Crown in the prosecution. He will be supported by both Crown Counsel and probably Junior Counsel, bearing in mind that each of the defendants is likely to be represented by Queen's Counsel. Therefore, it is thought at present that we need a team of three; that team of three includes the case controller who will be acting as instructing attorney in the case.

It would also be fair to say that other members of the Legal Department may contribute to this process. Some of us are involved in aspects of the management of the case. But the responsibility for the presentation of the case in court will be that of Andrew Mitchell, QC. He has the lead on the issue.

If I may just take the opportunity of saying what matters incidental to the prosecution are. For example, there have been many civil matters in which Mr. Mitchell is also experienced: that is quite unusual for a criminal practitioner. There have been restraint orders and there have been matters in connection with the ongoing liquidation proceedings, which have taken some of his time and indeed some of my own time. So, where we can, we are trying to use our expertise but where we need to learn and acquire experience we are using his. If there is anything else I can assist with I would be happy to.

The Speaker: First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you. Could the Honourable Second Official Member state—this perhaps is asking an opinion so it would be entirely up to him given the circumstances. And while we do not know what the end result of the case is going to be—is it certainly the intention of the Government to, if at all possible, recoup costs for the trial and if that is the case, how?

The Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: I would not want to hazard an opinion but I can give you what my view is about the issue. It really would be for a court at the end of the day to take a decision and I would not wish to seek to venture an opinion about that.

The funding of the case, as the answer indicated, is presently funded from the confiscated asset fund and those monies represent money from previous law enforcement activities. Under the asset-sharing agreement with the United States and the only condition that they apply is that they should be used for law enforcement purposes. So, we are reusing monies, which are not part of Government's recurrent revenues to fund ongoing law enforcement.

As far as assets are concerned, there are funds restrained at present and if at the end of the day persons are found guilty of money laundering, and are found to have benefited from it, it is then open to the Crown to apply to the Court for the confiscation order in respect of any amounts that the court considers that they may have benefited from. I do not wish to predict *that* but I am merely pointing out that that is open and I believe that it is also open to the Crown, if successful, to apply for its costs. That is as far as I would wish to go if I may, at this stage. Thank you.

The Speaker: The Member for East End. I will allow one more supplementary thereafter.

Mr. V. Arden McLean: Thank you, Madam Speaker. In a previous answer to a supplementary I believe the Second Official Member said that Mr. Mitchell was previously in the Turks and Caicos Islands conducting a money laundering case and Her Majesty's Government had paid for that. I am just wondering if the Second Official Member could tell us if the Cayman Islands Government made any application to Her Majesty's Government to assist with this particular one that we are conducting, since it is our first one also.

The Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: First of all, I would like to clarify that the activities of Mr. Mitchell were not during the time that I was there. Just for the record that is not the question, but the second part of it is: I believe that the matter in the Turks and Caicos Islands was of such a scale and their budgetary position was not in the same state as the Cayman Islands, therefore, it was considered. I do not wish to be quoted as an expert on the Turks and Caicos Islands budgetary position, but it is nowhere in the same league as the Cayman Islands and I can assure you that any such application would not have been met with success.

I wish I could tell you differently but I cannot. I think the view would be that we are able (for the reasons I have explained) to fund us not from recurrent expenditure but because law enforcement here has been successful in the past and has built up a confiscated assets fund which is designed to be used for this purpose. That is as helpful as I can be.

The Speaker: The Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, during a response from another supplementary the Honourable Second Official Member explained that Mr. Mitchell had been and is currently retained in connection with other matters outside the remit of this prosecution.

I wonder if the Honourable Member can say whether or not they are separate financial arrangements in relation to those other matters, which are not included in the figures that he has provided this Honourable House with in relation to the substantive question.

The Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: Thank you, Madam Speaker. It gives me the opportunity to say that the funding from the Asset Confiscation Fund was approved by the Executive Council as far back as 31 Oc-

tober 2000. That was funding from the Assets Confiscation Fund is a separate account in the Treasury. When Council approved that funding, it also approved funding for the other main money laundering prosecution that is on the way which is the 'Cash for Titles' case, the case controller for which is also present today in anticipation of your being interested in any other matters.

That is the only other major matter in which Mr. Mitchell is instructed and he has the responsibility for advising on that case with a view to its presentation. How that case will be presented is yet to be determined but that is the only matter in which he is presently engaged. But if you would permit me: the funding is separate from which I have reported but it is coming from the same source. If that answers the question. Thank you.

The Speaker: Madam Clerk, next question.

Question No. 2

No. 2: Mr. Alden M. McLaughlin, Jr. asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration what is the status of the Euro Bank prosecution?

The Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: Madam Speaker, the status of the Euro Bank prosecution is as follows:

On 9 February 2000, Judith Donegan, Brian Cunha, Ivan Burges, all former officers of Euro Bank Corporation, and Melvin Taves, a resident of Grand Cayman, were charged with offences of assisting another to retain the benefit of criminal conduct contrary to section 22 of the Proceeds of Criminal Conduct Law 1996 (2000 Revision) and conspiracy to assist another to retain the benefit of criminal conduct, contrary to section 306 (f) of the Penal Code (1995 Revision). Charges were laid and warrants issued against a further five persons resident in this jurisdiction.

Additionally, on 5 July 2000 Donald Stewart, the former Chairman and General Manager of the said Bank was arrested and interviewed in connection with offences of Money Laundering. He was charged on the 26 October 2000 with the like offence of conspiracy to assist another to retain the benefit of criminal conduct, contrary to section 306 (f) of the Penal Code (1995 Revision) and is currently on bail. On this date also a similar charge was laid against Donald Fraser, (shareholder and non-executive director of the Bank, not resident in the jurisdiction) and further general charges were laid against Burges, Cunha and Donegan for like offences.

A preliminary inquiry was conducted in the Summary Court in the period January to March 2001 in respect of all individual defendants resident in the jurisdiction. Following upon a finding by the learned Mag-

istrate that the evidence adduced was sufficient to put the accused persons on their trial all were committed to the Grand Court. Trial on indictment is scheduled to commence in that Court on the 27 May 2002. The defendants will have the right to elect trials by Judge or Jury. For money laundering offences, twelve jurors shall form the array.

On the 7 November 2000 the Bank, itself, was charged with eight offences of conspiracy to assist another to retain the benefit of criminal conduct contrary to section 306 (f) of the Penal Code (1995 Revision). Seven of the charges relate to specific accounts held by various overseas customers. One charge relates to the general activity of the Bank in relation to its customers. It alleges that between the 1st day of January 1996 and the 31st day of May 1999, Euro Bank Corporation conspired together with other persons to enter into or otherwise be concerned in arrangements whereby the retention or control by persons of property which was those persons' proceeds of criminal conduct was facilitated knowing or suspecting that those persons would engage or had been engaged in criminal conduct or had benefited from criminal conduct. A Preliminary Inquiry into these charges has not yet been conducted in the Summary Court.

The Speaker: Are there any supplementaries? Second Elected Member for the district of George Town.

Supplementaries

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

From the answer it would appear that it is the intention of the Crown to proceed separately against the bank and that in fact it is not the intention of the Crown for the charges against the bank to be dealt with by the Grand Court at the same time as the other trial would commence on 27 May 2002. I wonder if the Honourable Second Official Member could confirm that that is in fact the case.

The Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: Madam Speaker, while I have attempted to be as helpful as I can in relation to these matters, it will be appreciated that these matters are sub-judice. As a consequence I do not think it appropriate to indicate what the Crown's intentions are in relation to certain matters, some of which are presently the subject of appeals so that if the House will permit me I would prefer not to go into further details to avoid any possible prejudice to any matters which are before the courts.

The Speaker: Are you asking, Honourable Second Official Member for a ruling on Standing Order 35(1) which deals with content of speeches in particular to a sub-judice?

Hon. David F. Ballantyne: I would think that that Standing Order might be appropriate in the circumstances. Although I have emphasised my willingness to assist the House I think the interest of justice and the nature of the proceedings should take priority at this time. Thank you.

The Speaker: I am grateful. In accordance with Standing Order 35(1) it is the opinion of the Chair that any further matters as it relates to the trial which is pending for a judicial decision would be sub-judice and I will ask the Clerk to go on to the next question.

Question No. 3

No. 3: Mr. D. Kurt Tibbetts asked the Honourable Minister for Health Services, District Administration and Agriculture to give an update on Aqua-culture regarding the ongoing discussions with the Harbour Branch Institute.

The Speaker: The Honourable Minister responsible for Health Services, District Administration and Agriculture.

Hon. Gilbert A. McLean: There are no ongoing discussions with the Harbour Branch Oceanographic Institution. However, the Ministry of Agriculture is aware of proposals contained in correspondence from that institution, dated 1 November 2001, to the former Minister of Planning, Communications and Works. These proposals will be reviewed and a response forwarded to the institution in due course.

The Speaker: Are there any Supplementaries? The First Elected Member for the district of George Town.

Supplementaries

Mr. D. Kurt Tibbetts: Thank you. Can the Minister state, understanding what has been put forth on the substantive answer, whether or not at present the Committee which existed to develop specific policy on Aqua-culture is still functioning and whether or not there is any progress with regards to the specific policy forthcoming?

The Speaker: Honourable Minister responsible for Agriculture.

Hon. Gilbert A. McLean: Thank you, Madam Speaker. The subcommittee that was set up has been examining the . . . Could I have a moment please?

The Speaker: Certainly.

Hon. Gilbert A. McLean: Thank you Madam Speaker. I am advised that the Committee has been examining certain matters as raised by the Member and they

should be producing some recommendations to the Ministry by next week.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Could the Minister state if there has been any correspondence with the

Harbour Branch Institute since the last letter received on 1 November?

The Speaker: Honourable Minister responsible for Agriculture.

Hon. Gilbert A. McLean: Madam Speaker, no correspondence has been sent to that Institute. It is my understanding that the correspondence was directed to the former Minister but no communication has been made with them since.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Let me say quickly, that I am certain the Minister will understand the spirit I am in. That has been quite some time and not withstanding who the correspondence was addressed to and understanding that, perhaps it will be a little time before decisions can be made with regards to a way forward if there will be any relationship established between the Ministry and that Institute.

I would seek an undertaking from the Minister to look into the matter to see if it might not be prudent, even if there is no decision at present, to correspond with the Harbour Branch Institute just to retain the relationship, while needing the time to come to a decision as regards to what will be the way forward.

The Speaker: Honourable Minister responsible for Agriculture.

Hon. Gilbert A. McLean: Madam Speaker, I think I can give the undertaking to look at the correspondence and to get any information that I can from the sub-committee on diversification and Aqua-culture and make a decision then to correspond with the Institution along the lines that would be in keeping with what was originally communicated from it to the former Minister.

The Speaker: If there are no further Supplementaries we will move on to the next question. Madam Clerk.

First Elected Member for George Town.

Question No. 4

No. 4: Mr. D. Kurt Tibbetts asked the Honourable Minister responsible for Community Services, Youth and Women's Affairs, what is Government's present

policy regarding the provision of remand facilities for youth?

The Speaker: Honourable Minister for Community Affairs, Youth and Women Affairs.

Dr. the Hon. Frank S. McField: The Government's present policy regarding the provision of remand facilities for youth is that young offenders must be remanded when the Youth Justice, the Juvenile's and the Children's Law require it. However, we are also aware that the majority of our young people live wholesome, drug-free lives and we need to ensure that we provide prevention and (if they offend), rehabilitation services for them.

Government's position is that decisions to detain/remand should be guided by prudent assessments of risk to both the youth and society and should be restricted to instances of compelling evidence that there is a clear and present danger to the youth or the community; that the youth is likely to fail to appear for trial or sentencing; or that the youth will likely commit an additional violation before adjudication or disposition.

As a government, we have approved the National Youth Policy and endorsed the Report of the Committee of Inquiry into the Causes of Social Breakdown and Violence among Youth in the Cayman Islands. Both documents call for preventative action to be taken rather than remand alone. Both documents identify ways in which youth can adopt healthy lifestyles and increase their participation in pro-social activities, thereby reducing the risk factors associated with juvenile deviance. As a result this will decrease the need for an expensive remand facility.

Honourable Members of this Legislature are also aware that there was a proposed Secure Remand Centre, which was projected to cost some \$10 million. Finance Committee has not supported this project since [the year] 2000. An alternative to this was the Orchid House Project proposal which would cost some \$415,000 in renovations and another \$600,000 in recurrent (operating) expenditure per annum. This would mean that we would be spending some \$60,000 (excluding maintenance cost) per annum to remand each young person, as there were a total of 9 beds available.

Therefore, Government has made the decision to delay the construction of the Orchid House proposal. This would give the Ministry, for which I hold responsibility, time to examine alternatives in dealing with the need for secure remand facilities and how they can be integrated with rehabilitative programmes for juveniles who have begun to offend.

I also met the Director of Prison who looked at an alternative to Orchid House, which would basically make use of the "old" Women's section of Northward, retrofit it and secure it from the main prison. This would enable the young offenders to be segregated from the adult prisoners. The Ministry has also requested the Department of Substance Abuse to offer more pro-

grammes to young people to ensure that we tackle the problem of drug abuse, which is one of the main problems, which our young people face. Honourable Members were also briefed on the revised programme at the Cayman Islands Marine Institute in a statement in the Legislative Assembly on the 19 December 2001.

The Ministry and a representative of the Juvenile Court also had the privilege of attending the 2nd Annual Conference on Juvenile Detention Reform, which was at the invitation of the Annie E. Casey Foundation, through the Associated Marine Institute. On this visit, these representatives were able to gain valuable information on the alternatives to remanding juveniles. This was covered on a recent Public Eye Show. AMI has recently extended another invitation to the Ministry to travel to Tampa and review a programme designed for serious offenders that does not use a hardware secure facility. This invitation was also extended to the Minister of Education. A delegation with representatives from my Ministry, the Ministry of Education and the Chief Justice will make this visit to Tampa in about two weeks' time.

As can be seen from the above, the Government's policy is a multifaceted one that looks at a continuum of care by addressing the problems faced by young people and their parents or guardians. As a Government, we recognise that there are a few young people who will not respond positively to reform efforts and will need to be placed in a secure facility to pay their debt back to society and/or change their way of life.

As the Minister with responsibility for Youth, I am committed to ensure that those numbers are decreased and to support the mass of our youth population. This can be achieved by providing our young people with viable positive alternatives to juvenile deviancy thereby creating and encouraging future leaders and citizens of tomorrow, and not individuals whose only qualification is the ability to survive in a remand facility.

Our next initiative in this quest, based on the works occurring in the more progressive jurisdictions in the USA, and known by the stakeholders (including, judges, police officials, district attorneys, social workers, policy analyst and policy makers) as Juvenile Detention Alternatives Initiative, is to form a multi-agency Task Force that will be tasked with (1) Examining the Eligibility Criteria for juvenile detention; (2) Formulate a risk assessment regime to determine the level of custody that various youth offenders require; and (3) Develop a quality control/monitoring system to track issues such as consistency, accuracy and outcomes.

The Speaker: Thank you, Honourable Minister. Are there any supplementaries?

The First Elected Member for George Town.

Supplementaries

Mr. D. Kurt Tibbetts: Thank you. I do understand basically what the answer has stated with regards to policy but just so that the Minister will understand—and I will turn it into a question. When I spoke to the present policy I was thinking that perhaps with the multifaceted approach taking place, there will be an interim period when, while all that is happening – and it might take some time to see the results that the Ministry anticipates – there will be that need during that time. He mentions in the answer that he also met with the Director of Prisons who looked at an alternative to Orchid House, which would basically make use of the 'old' Women's section of Northward, retrofit it and secure it from the main prison. Is the Minister saying that that is proceeding on and during the interim period that is what will be used while the policy is being put into practice?

The Speaker: Honourable Minister for Community Affairs.

Dr. the Hon. Frank S. McField: Madam Speaker, that supplementary was almost as long as my answer. However, I believe that the Member is asking whether or not we will use the facilities at Northward.

The issue is that we do not believe that we should spend \$60,000 a year on one child who comes from a family where parents are not even earning \$15,000 per year. We do not believe that we can treat the youth in isolation from other factors like the community, the family or the school.

We therefore believe that it is important to try to avoid placing children in lock up. I have tried to understand the philosophy behind the original plans to build a \$10 million facility in an island like this. This is not only illogical but the whole idea of building an alternative that would cost \$600,000 a year for nine beds was also not the best way to use public funds nor to create the kind of safety, which we need because the safety for the general public will come from rehabilitation.

In instances where we have young persons who will not avail themselves, there is the opportunity for rehabilitation. Those young people will be kept in the secure facilities where the women's cells were at Northward Prison. We have again stated quite clearly that that will be totally physically and socially separate from even the older juveniles (17-25) that will be on the other side. It is a question of the efficiency and expediency of the issue. We would have had absolutely no funds to spend on preventive measures if we have tied this amount of money up in the Orchid House, which does not represent a solution to the people who need to have some type of assistance in dealing with the youth problems that they are experiencing in their families and their communities.

The Speaker: Are there any further supplementaries? If not we will move on to the next question.

The Elected Member for the district of North Side.

Question No. 5

No. 5: Mrs. Edna M. Moyle asked the Honourable Minister responsible for Ministry of Education, Human Resources and Culture if there is an Educational Psychologist on staff at the Education Department in Cayman Brac?

The Speaker: The Honourable Minister responsible for Education.

Hon. Roy Bodden: There is no Educational Psychologist permanently stationed in Cayman Brac. However, the Brac does receive the services of an Educational Psychologist. These services are provided in a manner that is consistent with similar services in Grand Cayman. In the Cayman Islands, including Cayman Brac, Educational Psychologists are accessed according to a specified referral procedure in accordance with the Special Needs Policy.

According to policy and procedure, referrals to Educational Psychologists are co-ordinated by the Learning/Behaviour Specialists and approved by the school principal. In response to referrals (made according to the accepted procedure) an Educational Psychologist travels to the Brac. The travel budget provided for this service allows four visits per year (two to three days each). In the last four years between 15 and 20 referrals from Brac schools have been processed each year. Given that the total population of students on Cayman Brac is 329, this is in fact a higher degree of Educational Psychological service that is provided for a similar population of students on Grand Cayman.

It should be noted that Educational Psychologists sometimes receive referrals for assessment in intervention in cases that would ordinarily be managed by a School Counsellor. This has also been true for Cayman Brac. This is the first year that a full-time School Counsellor position has been assigned to Cayman Brac. While this is a greater allocation of counselling or resources per student population than is available on Grand Cayman, the Brac has fewer counselling or other Mental health resources. This means that the School Counsellor on the Brac is often dealing with some issues that would ordinarily be managed or supported by other agencies in the context of Grand Cayman.

The Cayman Brac staff have not submitted any referrals requesting services from an Educational Psychologist so far this year. This is possibly due to the fact that previous assessments are still current and that current special needs support staff (Learning/Behaviour Specialists and the School Counsellor) are able to meet local needs.

The Speaker: Are there any supplementaries?
The Member for North Side.

Supplementaries

Ms. Edna M. Moyle: Thank you, Madam Speaker.

I wonder if the Honourable Minister would say how many Educational Psychologists are on staff on the Cayman Islands Education Department (that is Grand Cayman and Cayman Brac) and if he is in a position to say at this time, how many special needs students are serviced by the number of Educational Psychologists that we have on staff.

The Speaker: The Honourable Minister responsible for Education and Culture.

Hon. Roy Bodden: Madam Speaker, there are two Educational Psychologists permanently on staff. In answer to the second part of the question: I do not have with me at this time the exact number of special needs students that are serviced from time to time. But I can say that the Psychologists service special needs from the private schools when requests are made to the Education Department as well as public schools. I can also say that the number of students serviced will vary from time to time according to the assessments and the requests for the services.

The Speaker: The Honourable Member for North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. I wonder if the Honourable Minister could say, given the population of the schools in the Cayman Islands, if two Educational Psychologists are sufficient even though three positions of Educational Psychologists appear in the budget?

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

Hon. Roy Bodden: Madam Speaker, I am informed that two Educational Psychologists are indeed adequate. Although provisions have been made for a third post which is currently vacant. I think that Honourable Members need to bear in mind that requests are carefully monitored. Since these would involve some counselling, it is anticipated in most cases that with the assessment of the Educational Psychologists and Learning Behaviour Support Unit (and sometimes teachers at the school offering counselling) it is hoped that the majority of these problems can be overcome within a matter of months so that the needs should really be on a reduction basis, rather than increasing expedientially.

The Speaker: The Honourable Member for North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. I wonder if the Honourable Minister would give an undertaking to provide the House with the number of special needs children that we have in the school system?

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Most certainly, Madam Speaker. I will give the House that undertaking to provide this and I will make sure that it is categorised, but what I will not do is give the names of any children.

The Speaker: The Honourable Member for North Side.

Ms. Edna M. Moyle: Madam Speaker, I do not care to have the names of the children, I would just like the numbers please.

The Speaker: Are there any further supplementaries? If not Madam Clerk, call the next question.

The Honourable Elected Member for the district of North Side.

Question No. 6

No. 6: Mrs. Edna M. Moyle asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture how many hours per week is each Government Primary School given by a speech pathologist.

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: There are four Speech Pathologists employed by the Education Department. One Speech Pathologist is based at the Lighthouse School to serve the children of the Early Intervention Programme. She also travels to Cayman Brac to provide the service to children referred by the Special Education staff there. The officer makes one visit every six weeks for four days.

Service on Grand Cayman is provided as follows: Each school receives an average of three and a half to five hours per day based on the stated needs of the children. Each officer is timetabled to schools each day as follows:

Name of Schools	Amount of Sessions	Total Hours per Week
Red Bay Primary	4	11
John A. Cumber Primary	3	9
George Town Primary	3	7 ½
Savannah Primary	2	5 ½
Bodden Town Primary	1	3 ½
North Side Primary	1	3 ½
East End Primary	2	5 ½
George Hicks High School	1	5 ½ per ½ term
John Gray High School	1	5 ½ per ½ term
Light House School	9	18 ½

Speech Therapy is not just total face-to-face contact with a child. A session may include planning or parent advice and recommendations.

The Speaker: The Member for North Side.

Supplementaries

Ms. Edna M. Moyle: Thank you, Madam Speaker. I wonder if the Honourable Minister would be in a position to say how many children at each of these Primary Schools are dealt with per session?

The Speaker: The Honourable Minister responsible for Education, Human Resource and Culture.

Hon. Roy Bodden: Madam Speaker, it is my understanding that in most of these cases it is only one or two children. But the sessions do not exclusively include a session with a child or two children. Sometimes a session can include also working with a teacher and advising a teacher along with a student.

The Speaker: Are there any further supplementaries? The Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I think the Minister just said that in most cases there is only one child. I take it that he is exempting the Lighthouse School because we all understand that. But if such is the case, why then would Red Bay School be having 4 sessions per week and a total of 11 hours and East End has 2 for a total of only 5½ hours. I wonder if the Minister could explain that to us.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Madam Speaker, this is a Specialist service, which is most effectively conducted on a one on one basis. And while one has to remember that there may be speech impediments, there are different types of speech impediments. So, it is possible, for example, that children having the same impediment, that one or two can be taken together.

The Speaker: Are there any further supplementaries? The Member for North Side.

Ms. Edna M. Moyle: Madam Speaker, I wonder if the Honourable Minister could tell me how many students at the North Side Primary School require speech pathologists?

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

Hon. Roy Bodden: Madam Speaker, I would have to give the Member for North Side an undertaking to bring her that statistic as it is not available at this time.

The Speaker: The Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. If it is not available for the East End Primary School, I would ask the Honourable Minister if he would give the undertaking to provide that also.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Madam Speaker, it seems logical that I should bring the statistics for all of the schools listed here and I shall undertake to so do.

The Speaker: Thank you.
The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. In the substantive answer in the second paragraph it reads, "**Service on Grand Cayman is provided as follows: Each school receives an average of three and a half to five hours per day based on the stated needs of the children**". I am having difficulty understanding exactly what the statement means. Because if you simply take it to mean between 3½ to 5 hours per day if you multiply that by 5 days—but I do not think it really means that. I am just asking for clarification on that sentence so that we can have it very clear.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: My apologies. That is a typographical error; it should have read 3½ to 5 hours per week.

The Speaker: Are there any further supplementaries? If not, we will move on to the next item of business.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received no statements for today.

GOVERNMENT BUSINESS

Commencement of Debate on the Throne Speech

The Speaker: We have almost reached the hour of 4.30 pm. Is it the wish of the House to commence debate on the Throne Speech, or should we reconvene tomorrow morning?

The Honourable Leader of Government Business.

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, we propose to suspend. I move the adjournment until 10 am tomorrow.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Madam Speaker, I wish to tender apologies for my absence for tomorrow and Friday, as I will be over in the constituency of Cayman Brac and Little Cayman on official business. I also have some questions scheduled for tomorrow, which I shall make

arrangements for one of my colleagues to ask for your permission to withdraw until I return on Monday, God willing.

The Speaker: Thank you. Is it your intention to have him answer during this time?

Hon. Roy Bodden: We will defer them until Monday.

The Speaker: Thank you for the clarification. The question is that the House do now adjourn until 10 am tomorrow.

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

Ayes.

The Speaker: The Ayes have it. The House stands adjourned until 10 am. tomorrow.

At 4.28 pm the House stood adjourned until Thursday, 21 February 2002, at 10 am.

OFFICIAL HANSARD REPORT
THURSDAY
21 FEBRUARY 2002
10.28 AM
Third Sitting

The Speaker: Good morning. I will call upon the Third Elected Member for the district of West Bay to grace us with prayers.

and will not be here for today nor tomorrow. Madam Clerk.

PRAYERS

Capt. A. Eugene Ebanks: Let us pray.

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

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

Let us say the Lord's Prayer together:

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

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

Proceedings resumed at 10.31 am

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

Apologies

The Speaker: Please be seated. Proceedings are resumed. I have received apologies from the Honourable Minister of Education and the Honourable Minister of Planning who are both away on official business

Deputy Clerk: Questions to the Honourable Ministers and Official Members.

**QUESTIONS TO HONOURABLE
MINISTERS AND OFFICIAL MEMBERS**

The Speaker: The Honourable Member for the district of North Side.

Question No. 7

No. 7: Ms. Edna M. Moyle asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economics, to give the terms of employment, including notice period, severance pay and the like, of the recent Head of the Monetary Authority.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, cognizant of the importance of maintaining the highest level of stability within our financial industry, there was an understanding between the board of Directors of the Cayman Islands Monetary Authority and the previous Managing Director that the terms of his resignation and related severance pay would not be publicly discussed. I am prepared, however, to provide Members with the relevant details in a private meeting which could be arranged during this Sitting of the Legislative Assembly.

The Speaker: Are there any supplementaries?

The Second Elected Member for the district of George Town.

Supplementary

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I would rather believe that defeats the purpose of Parliamentary Questions, but nevertheless, I wonder if the Honourable Third Official Member is in a position to say what prompted the resignation?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I do not understand the views expressed by the Honourable Second Elected Member for George Town but that could be a part of the information that will be shared

with that Honourable Member in the private meeting that I have proposed.

The Speaker: Madam Clerk, next question.

The Honourable Member for the district of North Side.

Question No. 8
(deferred)

No. 8: Mrs. Edna M. Moyle asked the Honourable Minister responsible for Education, to give a breakdown of the hours per week for which each grade receives computer instruction in Government Primary Schools.

The Speaker: Honourable Leader of Government Business, I believe it is the intention to defer by virtue of Standing Order 23(5).

Suspension of Standing Order 23(5)

Hon. W. McKeeva Bush: Madam Speaker, another good reason for the suspension of the Standing Order.

The Speaker: The question is that Standing Order 23(5) be duly suspended to allow the deferral of Question No. 8 so that it can be answered at another appropriate time. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. The question will be accordingly deferred.

Agreed: Question No. 8 deferred.

Question No. 9

The Speaker: The Honourable Member for the district of East End.

No. 9: Mr. V. Arden McLean asked the Minister responsible for Tourism, Environment, Development and Commerce, what progress has been made on the implementation of Vision 2008?

The Speaker: The Honourable Minister responsible for Tourism.

Hon. W. McKeeva Bush: Vision 2008 continues to feature prominently in the Government policies and programmes as would have been noted from the recently presented Throne Speech and prior to that in the presentation and documents setting out the 2002 Budget.

As the transition from an 'input based' budgeting system to an 'output based' system continues in

accordance with the recently enacted *Public Management and Finance Law 2001* and the ongoing Financial Management Initiative (FMI), the Vision 2008 plan will continue to serve to better define what the Government is seeking to achieve.

In order to ensure the best possible compatibility between the Financial Management Initiative and the Vision 2008 plan, an exercise to be launched to effectively 'recast' the strategies proposed by Vision 2008 into measurable outcomes both broad and specific. In turn, when the 2003 Budget is prepared for the first time on an output basis all outputs will be required to contribute to achieving one or more of these measurable outcomes. In this way, the Government will be able to set targets for what it hopes to achieve in each outcome area and definitively give account of its implementation of the Vision 2008 plan.

The Speaker: Are there any supplementaries?
The Elected Member for East End.

Supplementaries

Mr. V. Arden McLean: Thank you, Madam Speaker. Some time last year there was an announcement that the Deputy Chief Secretary was to head the implementation of Vision 2008. Can the Minister tell us if there is an office established and how many people are working in that office?

The Speaker: The Honourable Minister responsible for Tourism.

Hon. W. McKeeva Bush: Madam Speaker, there is no office established other than, I am the Minister responsible for the implementation of Vision 2008 and the Deputy Chief Secretary is still involved and we are moving forward with the implementation as the answer to the question suggests.

The Speaker: Are there any other supplementaries?
The Honourable Member for the district of East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Can the Minister then tell us if it is the intent to establish an office and have other staff members assisting the Deputy Chief Secretary to implement this very important part of the country's future?

The Speaker: Honourable Minister for Tourism.

Hon. W. McKeeva Bush: Madam Speaker, we see no need to create further bureaucracy. I do not think that would be wise. The strategies that are contained in Vision 2008 can be implemented in the budgetary processes of this country and that is what we are intending to do.

Madam Speaker, I can give Members some examples of the impact of Vision 2008 and Government policies. Strategy five of the Ten-Year National

Strategic Plan, Vision 2008, called on the country to develop cultural awareness based on traditional Christian values and strong family units. To this end the Ministry of Culture is developing a cultural policy which will help to enhance national identity, promote national integration and unity and maintain the harmony and values on which traditional Caymanian culture is based.

Also, the initiatives by my Ministry [Tourism] towards the establishment of a growth management board, Vision 2008 calls for such a growth management board – although that is not the first time a growth management board has been called for. Vision 2008 was, and still is a ten-year plan. In order to be able to say categorically what progress is, or is not being made, it is essential that the strategies and action plans be recast into measurable outcomes and that is what we are attempting to do.

The Speaker: Are there any further supplementaries?

The Second Elected Member for the district of Cayman Brac and Little Cayman.

Mr. Lyndon L. Martin: Thank you, Madam Speaker. Could the Minister indicate if it is accurate that the Vision 2008 would be reflective of the wants and desires of the entire country for the future of the Cayman Islands?

Hon. W. McKeeva Bush: Yes, Madam Speaker, I would say that is the aim and objective of Vision 2008. There are people who disagree with some of the areas in Vision 2008, but broadly speaking that is the aim and objective of the plan which was prepared by some 400 people.

The Speaker: The Second Elected Member for the district of Cayman Brac and Little Cayman.

Mr. Lyndon L. Martin: Thank you, Madam Speaker. Could the Honourable Leader of Government Business (the Minister of Tourism) confirm that the Government under his leadership has accepted the Vision 2008 as publicly stated in the press conference at the launch of the United Democratic Party as being the guideline for the development of policies under his leadership?

The Speaker: Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, I can also confirm that.

The Speaker: The Member from East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I think we are some three years or thereabouts into the Vision 2008 ten-year policy. Can the Minister tell us if

the Government is satisfied that the progress made thus far is reflective of the stage we are at now?

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, I hope the Member appreciates that not very much was done before 2000. Last year we started and I can safely say that we are building on what Vision 2008 asked for. And while we are in some three years as he said, I think that I can say that my Government is moving in the right direction.

The Speaker: The Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. The Minister said that there was a period when much was not done and now we are moving. Is it the Government's intention to re-structure Vision 2008 to make up for the progress that was not made during that time? How would it be done?

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, I know the Member was sitting there earlier when I said that an exercise is to be launched shortly to effectively re-cast the strategies proposed by Vision 2008 into measurable outcomes both broad and specific. And we do not propose to go back to the public as such. We are doing it through the Civil Service structure, Ministry by Ministry, department by department and each budget. That is what that means.

The Speaker: I will allow for one more supplementary following thereafter.

The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I thank the Minister for restating that. I wonder if the Minister can say if it is anticipated that we will have to add on years in order to make up, and if so, how many?

The Speaker: The Honourable Minister for Tourism.

Hon. W. McKeeva Bush: Madam Speaker, I think I explained to the House what we are intending to do presently. But, next year we intend to revise the plan to deal with situations as we go along.

The Speaker: The Member from North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. I wonder if the Honourable Minister would say the Vision 2008 is a revolving plan.

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Madam Speaker, that is what I have been trying to get across to them—that it is ongoing. As we move along and situations arise, of course we will try to deal with them – and it is a vision.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

Revised Criteria for Seamen's Ex-gratia Benefits

The Speaker: I have received notice that the Honourable Minister responsible for Community Services wishes to give a statement this morning.

Dr. the Hon. Frank McField: Thank you.

Madam Speaker and Honourable Members of the Legislative Assembly, I would like to give a brief statement on the revised criteria for Seamen's Ex-gratia Benefits. There is no doubt of the worth and value of the contribution made by our Seamen to the development of these Islands.

In past generations local timber was used to build catboats and sailing vessels. They were used in the absence of paved roads, for transportation from district to district to do trading, gathering thatch and bark to make rope and dyes and even delivering mail. These boats were also used to catch fish, turtle and other seafood. Larger and larger vessels were built and sailed further from home. We know of the trips to Mosquito Cays, Cuba, Jamaica and other destinations to catch turtles and sharks, which were traded. We also know of the natural disasters and losses of life at sea and the many sacrifices these brave seamen made.

When the age of commercial shipping arrived, the reputation of our men as world-class sailors earned them quick acceptance to serve as crew on supertankers and other vessels sailing the Seven Seas. This is a history of which we are justly proud.

Of course, I must be gender sensitive and also give accolades to the women who managed the homes and businesses and raised the children in the absence of the men. Nevertheless, it is well documented that the financial allotment sent home by these seamen did keep the communities and government functioning in the absence of any other substantial foreign exchange earnings. The financial needs of ex-seamen have been recognized in the present time and have been dealt with by three consecutive Ministers in the Ministry for which I hold responsibility, as well as by all other Members of the Legislative Assembly.

In September 2000, Government introduced a scheme to provide benefits of \$400 per month to Caymanian seamen or their surviving spouses over the age of 60 years. Upon taking up office in November 2000, the Elected Member for North Side, Ms.

Edna M. Moyle the then Minister responsible for Community Development, requested the Auditor General to carry out an audit of the benefits provided up to the end of December 2000. The audit highlighted the fact that quite a number of individuals were receiving other benefits from the Government, or were employees.

Additionally, there were quite a number of recipients of the benefits who were also either working, owned their businesses, or were financially secure. Ms. Moyle, the then Minister, asked the Honourable Executive Council to revise the criteria for the seamen's ex-gratia benefits and this was done in March and September 2001. This resulted in many seamen being denied needed and deserved financial assistance.

However, in January 2002, Honourable Members of the Legislative Assembly who are members of the United Democratic Party requested a meeting with the Ministry, for which I hold constitutional responsibility, to discuss the seamen ex-gratia benefits. At this meeting the Ministry answered questions on the history and philosophy of the benefits. It was agreed to review all beneficiaries and new applicants, using new criteria reflective of the decisions taken at that meeting with the Ministry and the United Democratic Party.

Some members of the United Democratic Party expressed concern that there were some recipients who had been, or would be, terminated and would be unable to meet their basic household expenses. Therefore, Government agreed that we should be assisting these individuals and that all recipients who are receiving an income up to \$1500, inclusive of this and any other government assistance as total household income per month, would continue to receive the benefits.

In the past our recipients received \$400 monthly, however, Government aid will now be limited to the amount needed to make up the shortfall of the \$1500 total income, while the maximum amount granted monthly will still not exceed \$400. This would have to be verified by a standard means test, normally via the Department of Social Services and/or accompanied by the relevant certified documentation which will include, where applicable, medical certificates, bank statements, titles of property, shares certificates, pension agreement and so on.

The Ministry has since revised eligibility criteria check list and application form to take into account the above and have had them approved by the Executive Council on the 9 February 2002. It should be noted that at present the Ministry of Community Services is providing benefits to 453 seamen, or their surviving spouses, at an annual cost of \$2,174,400 and is unable to add any new eligible recipients at this time.

Once the Ministry has reviewed all existing recipients and new applicants using these revised eligibility criteria, I will update the Executive Council and Members of the Honourable House. It should be noted that there is a possibility that the Ministry may need to

seek supplementary funds this year. The Ministry will inform all present recipients and future applicants of the revised criteria via the various media, radio, television and newspaper.

Recipients of the Government monthly check will be advised in the press release that their benefits are being reviewed and all are required to submit updated information and complete new application forms. The new form must be completed and returned along with relevant paper work such as property titles, medical certificates, pensions and insurance policies, as well as documents showing investment shares and salaries. Copies of this new eligibility criteria application form and checklist are available to Members of the Honourable House.

Madam Speaker, I thank you for the opportunity to share this statement with this Honourable House.

Statement by the Honourable Speaker regarding the approval by His Excellency the Governor on 20 February 2002 of the Legislative Assembly (Amendment) Standing Orders 2002

The Speaker: Thank you. Before moving on to the next item of business, I should wish to confirm for the record that in exercise of the powers confirmed on the Legislative Assembly by subsection (1) of 31, Schedule 2 of the Cayman Islands Constitution Order 1972 as amended, and in accordance with Standing Order 87 of the Legislative Assembly Standing Orders (1997 Revision), the following amendment to the legislative amendment Standing Orders (1997 Revision) was made by the Legislative Assembly on 20 February 2002.

As all Members will be aware, that specific amendment went as follows, '**No Member at any one time may speak on any debate for any period of time which, exclusive of breaks, exceeds two hours**'. It was made by this Honourable House yesterday, being the 20th day February 2002, and approved with effect on the same day, being the 20th of February 2002, and signed off by His Excellency the Governor, Peter J. Smith, CBE, Governor of the Cayman Islands.

Please proceed, Madam Clerk.

GOVERNMENT BUSINESS

The Speaker: Honourable Leader of Government Business.

Suspension of Standing Order 14(3)

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

Today being Thursday, Private Members' Business has precedence over Government Business. In order to allow the Throne Speech to go forward as we usually do, we move under Standing Order 83 to

suspend Standing Order 14(3) to allow Government Business to take precedence over Other Business.

The Speaker: Thank you. The question is that Standing Order 14(3) be suspended to allow the Government Business to take precedence over Other Business.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 14(3) suspended.

Commencement of Debate Throne Speech Delivered by His Excellency, Mr. Peter J. Smith, CBE, Governor of the Cayman Islands, on Friday 15 February 2002

The Speaker: Does any Member wish to speak? Does any Member wish to speak? Last call. Does any Member wish to speak?

The Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker, for this opportunity to offer my contribution to the debate on the 2002 Throne Speech.

I am also grateful to you, Madam Speaker for reading the amendment to the Legislative Assembly Standing Orders that was approved by His Excellency the Governor, apparently yesterday, going by the date. I must commend him for the expedition and note that it would be marvelous if all matters of importance affecting the governance of this country were accorded such priority and given such swift treatment.

Madam Speaker, in the introduction to the Throne Speech, His Excellency noted that this is an exciting time for those like him who have a tendency towards optimism. I suspect that His Excellency's optimism is due in large part to the fact that he is leaving these Islands shortly and will not have the responsibility for dealing with the significant problems and issues that the country currently faces.

I am a bit saddened at the news that His Excellency will be departing these shores shortly. Indeed, I feel like a little old lady who attended the last church service held by the minister of her church. You see, she had gone to services at this church all her life and she sat in the same pew time after time, Sunday after Sunday, year after year. However, on this occasion as she attended the final service to be held by the good minister, as he talked about the time he had spent there, how sad he was to leave and what a wonderful replacement the individual was who would fill his shoes, she sat in the pew and she cried inconsolably throughout the service. And so, when the service was over and the minister was saying his final

goodbye he said, *'Sister Mary, I have been in this church for four years and as I have preached, I have watched you Sunday after Sunday. We hardly spoke and I had no idea that you loved me so and that you appreciated my sermons so much. I am deeply moved, but never mind, the one who shall follow me is even better than I am'*. She said, *'Aye, minister you see that is the problem.'* He said, *'What do you mean sister?'* She said, *'I have sat here for years and years and the reason I am crying, sir, is not that I love you so much; the reason I am crying, sir, is that in my experience every change has been for the worse'*.

And so I feel a little like that old lady when I note the imminent departure of His Excellency. I feel a bit tearful.

His Excellency referred to the constitutional reform efforts which are underway and in particular the work of the Constitutional Review Commissioners who were shortly to present their report and draft modernized Constitution. I too would like to thank publicly the Constitutional Commissioners, Messrs. Arthur Hunter, Benson Ebanks and Leonard Ebanks for the tremendous amount of work that they have put into this exercise and the real efforts they have made to try to involve the entire community in the exercise.

I attended a number of the meetings and I must say that I was very impressed with the presentations by the Commissioners. However, I was disappointed by the responses of the audience. I believe the Commissioners were also disappointed that more people did not avail themselves of the opportunity to participate in the process by attending these meetings.

I believe that the Draft Constitution we will receive in due course for discussion, and ultimately for debate on the Floor of this Honourable House, will be the product of a very thorough exercise—one in which the Commissioners will have given a great deal of thought and conducted a great deal of research before that draft is produced.

I think that perhaps it is timely at this stage, even though we are yet to see the Draft Constitution, that I take this opportunity in debating the Throne Speech to explore a little of the elements of constitutional reform. In the current Constitution we have the Westminster system of government, and more specifically the tropical Westminster model, if I may call it that, which has generally been adopted within the Anglophone Caribbean over the course of the past 50 or so years.

During the very first meeting I held when I stood for election in the last campaign, I discussed the possibility and need for constitutional reform because I believe for all of us who have been interested in the political development of this country, we came to realize quite some time ago that the current constitutional document which governs the administration of this country is somewhat outdated. We have in many respects outgrown its tenets.

Madam Speaker, the events which followed the Election and indeed the way the entire Election campaign was conducted without any teams, parties and serious groupings were, I believe, clear evidence of the need for constitutional advancement. The controversy which followed in the effort to form the government that took office following the 2000 elections, again, I believe, highlighted the need for some system which involves discipline, which involves some element of certainty and predictability about the outcome of the process.

And then to a year—8th November of last year, made it plain to all in even more explicit terms that the system under which we currently operate is unsuited to deal with the level of political maturity and expectations that those who participate in the political process have.

Now, what transpired in November of last year did not sit well with the majority of the people of this country in my view, and it still does not sit well. Many of the people feel cheated in the sense that while there was a significant change in the government in November 2001, they did not participate in the process. Many believe that what transpired then was undemocratic, notwithstanding the fact that what was done was conducted quite well within the provisions of our current constitutional document. I have told many people, constituents and others, time and time again just that. What happened was constitutional, but it does not even begin to appease their outrage; the standard response is, *'Well the Cayman Islands Constitution needs to be changed then.'*

So, with all of the problems that have ensued and all the controversies that existed and continue to exist as a result of that transition, if I may use that neutral term, I believe one positive thing has come out of that whole exercise—the general acknowledgement by the majority of people in this country that we need to advance or reform the current Constitution, and that we need to move to a system of more disciplined and predictable politics.

One of the problems that resulted because of what transpired and the way things transpired on the 8th November is in the minds of a significant number of people. There is a concern about moving to party politics, and that stems mainly, I believe, from the fact that most people see the party system as having been imposed upon this country because the United Democratic Party did not exist prior to the 2000 elections. No one voted for the United Democratic Party and its policies and philosophies, but the country finds itself in a situation where it is governed by a party which it did not vote for and many people have a fundamental problem with that.

For my part I accept the inevitability of party politics, but I also understand that the development of party politics is not a panacea for the problems that we have in this country. If we look around us we can find many examples—those who argue against the adoption of party politics will say, *there is an example*

of what happens to a country when you develop party politics.

The Westminster style of government as it has evolved in the Anglophone Caribbean tends to develop divisiveness in the countries in which it has been adopted. It is not because the system is necessarily bad; it is because of the way politicians use the system.

And the problem is that many of the conventions obtained in the mother country from whence the system came, have not travelled well across the Atlantic. We have tended in this part of the world, certainly in Jamaica and the Eastern Caribbean, to do things which ensure party loyalty which create the problems that the critics of party politics can point to.

I am talking about patronage and the development of political tribalism because that is what created the garrison constituencies which are evident in Kingston, for example, where people will die for the Party, because when patronage develops and when there are limited resources (as there are always) the more limited the resources become the less people are able to share in that patronage.

In those circumstances what happens is, if you are not part of this Party you do not share in the largesse; you do not share in the limited resources of the country. The logical result is that because you are sharing in that, and because there is only so much to go around, you seek to ensure that whatever happens that Party remains in power. And if that Party ceases to remain in power your access to those resources and receipt of that patronage dries up.

In my respectful submission that is what has happened in Jamaica, Antigua, Dominica and other places. While there may be some discomfort in the minds of some on the other side, because of my saying these things, let me make it clear that I am not suggesting that that is the situation that currently obtains in the Cayman Islands. It does not; thank God it does not.

The point that I am seeking to make, is that we have a marvelous opportunity coming so late to the development of political parties. We have the benefit of the experiences of the rest of the Anglophone Caribbean to draw on, to look at and to say *'That is not what I want to happen to my country.'*

Madam Speaker, one of the big problems with the way the tropical Westminster model operates in the Anglophone Caribbean is this practice of exclusiveness. If you do not belong to the party and you do not subscribe to its philosophies you are not included in the process.

The result of that, especially in an electoral system such as we have, the first-past-the-post concept, often in those situations the governing party holds fifty per cent of the popular vote or less in some instances. So you wind up with a party which governs the country constitutionally and in accordance with the relevant election law, but which does not have popular support—and if it does, such support is marginal. And

then that party seeks to exclude from the consultation process all who do not subscribe to their philosophies. That contributes largely to the problems which are inherent in many of the other jurisdictions in the Caribbean who are full fledged political parties and a full-fledged party system.

What is often evident in those systems as well, is an intolerance of criticism and unwillingness to even allow a dissenting view. Yesterday when I sought to debate the Motion to reduce the hours of debate there were a number of persons on the other side who thought that my discussion of democratic principles and democracy were irrelevant to the debate on that Motion.

Now, while I have come to understand that the discussion of democratic principles and democracy causes certain members of the United Democratic Party indigestion, I do hope that they will not seek to advance the argument that discussion about democracy and democratic principles is irrelevant to a debate which involves constitutional reform.

So, if we are going to make this Cayman's model of party politics and seek to develop our own version of the Westminster model and not simply adopt what has happened elsewhere, those of us who sit in this Honourable House who campaigned for these seats are going to have to deal with each other in a different fashion than is the case in other jurisdictions.

We have to get used to the idea that the other man is entitled to his views even if he is critical of the government. We have to afford all an opportunity to participate in the process. We have to be mature enough to practice the politics of inclusion and tolerance. We have to avoid these cleansing exercises which are common features of the tropical Westminster model. When a new government takes office all the boards are cleaned out. In some cases even senior civil servants are asked to step down. We have to avoid the politicizing of the Civil Service. It is these things that have caused, in my respectful view, the problems which are inherent in other jurisdictions such as Jamaica.

If we look at the other jurisdictions and see what has become of them once they start to walk down this particular road, we should understand that if Cayman wants a different result we are going to have to act differently, and that what should be foremost in all our minds is not the preservation of our seats nor our power base but the preservation of peace, order and good government in this country.

For all the faults and with all the constraints that impinge upon our ability and willingness to do certain things within the parameters of the current constitutional framework, we still have a system which is essentially honest and devoid of victimization, which is essentially tolerant of free speech which is by and large devoid of patronage.

My appeal to all within and without the precincts of this Parliament who participate in the political

process is to bear these things in mind when we seek to garner votes because that is what the political process is about.

There are rumours about proposals that will come. Some of them have even been elevated to the front page of the *Cayman Net News*. There are rumours about a proposed increase in the number of seats in this Legislative Assembly that at least two of the seats currently held by official Members will become elected bringing the elected Executive Council to seven.

There has been talk of an increase in the membership of the House. I have heard 21 and 22 as proposed numbers. Let me say this about those things: I believe that if we are to move forward to develop this fledgling democracy that we have, it is imperative that all those who make the decisions at this level should be elected and held accountable by the electorate for their decisions one way or the other.

I also believe that while it may be expensive in the view of a number of people, that the best way to ensure democracy is to ensure that we have sufficient numbers of people in the Legislative Assembly on the Back Bench to contain the Government.

If the Government Bench becomes too heavy and the numbers over there almost equal the numbers over here Government tends to become more authoritarian, less accountable to parliament. In fact, by and large, in those circumstances Government becomes the Parliament and Parliament becomes the Government and the system is not supposed to function in that manner.

I believe, even though no one has actually explained it to me, that the rationale for the increase to 22, assuming an addition of two members, would be elected to the Executive Council. We need to keep, in my view, the balance at about two-thirds that the Cabinet makes up roughly one third of the elected members and no more. Madam Speaker, assuming that one of our numbers would be elected to your Chair, I can understand why the number would be 22. I have no difficulty with that.

There is another rumour that there will be a proposal to extend the life of this House by one year, and that elections would not be held until November 2005. I have a major problem with that. I have a contract with the people of George Town when we signed the expiry date to be election 2004. It did not say 2005. I wish to make it plain that I have no fundamental problem with a five-year term because it is the norm in a number of other jurisdictions in this Region. I have no difficulty with that, but the people of this country must know at the time that they go to the polls the length of the term for which they are electing their representatives.

It is not within our trust to extend our term unilaterally, and I warn the proponents of that concept: if they think that they had objections and demonstrations when what happened on the 8 November last

year, I am confident that any such proposal would be met with far greater objection.

I think I have said enough on that aspect of the Throne Speech. I will move on to talk a bit about the progression of plans for a new Court building to house a Summary Court in all its divisions; Criminal, Civil, Family, Youth, Coroners and Drug Court. His Excellency the Governor noted that the progression of these plans remains an urgent need. It was an urgent need also referred to in the Throne Speech in 2001.

The Speaker: Honourable Member for the benefit of the record would you indulge us in referring to the specific page number as you proceed thereon.

Mr. Alden M. McLaughlin, Jr.: Certainly, Madam Speaker.

That is under the heading of the Judiciary on page 2 of the Throne Speech. The need for more Court facilities was identified I believe a decade ago. Quite frankly, it has now reached a critical stage. Those who attended the opening of the Grand Court in January of this year will know that five out of the six persons who spoke on that occasion complained and highlighted the grave shortage of facilities. [pause] The Honourable Chief Justice devoted a significant portion of his address to identifying specifically what facilities were required.

Madam Speaker, he spoke about the Youth Court and noted that neither the Youth Court nor the Juvenile Court has a permanent base and because the Law requires that proceedings in these Courts are held in camera. This meant that many proceedings had to be held within the Court's building, sometimes at the Town Hall and sometimes at Kirk House. During his address he noted and I quote, "**Concerns over privacy, security and proper administration will continue to hamper the ability to deal with these cases so long as they must be dealt with under the present inappropriate conditions**".

Madam Speaker, he spoke about the need for more public space within the precincts of the Court. He spoke about the fact that there is little or no space for the sort of private interaction that is necessary between individuals who are involved in cases dealing with children and other family matters. He spoke about the matter of the lack of adequate holding cells for Prisoners. Noting that the current Court building was built some 30 years ago for the purpose of holding two Courts simultaneously. We now run seven or eight on any given day. He spoke about the lack of adequate registry staff to deal with the administration and he noted and again I quote, 'If these conditions persist for much longer, the timely and efficient administration of justice will be the ultimate victim'. Those are strong statements, Madam Speaker.

This is not a matter that we should take lightly. The functioning of the administration of the Justice system is as fundamental to good government as the running of this Parliament. The Honourable Chief Jus-

tice also noted that despite the fact that it was known that Court facilities were inadequate for more than a decade, and despite the fact that plans were drawn up and a sinking fund was agreed upon and that funds were ear-marked, during the course of last year those funds were diverted for other use in government. And the sinking fund that was to be established to form the base for the construction of new Court facilities has still not been established.

Now, I have knocked around those Courts for many years, 21 to be exact. I know from personal experience the changes that have occurred during that period. I worked there and I know that there is a general reluctance on the part of government, whichever government it is, to spend money on the judicial system, because it is not a revenue earner. It is one of those things that we have to have, but it does not produce anything.

If we continue to allow the facilities to worsen and allow the administration of justice to break down, all of these other institutions that we regard as being so much more important will be worth naught. Any country that finds itself without a functioning, effective administration of justice, system—might as well ‘close shop’ and go home. When people begin feeling that their rights can not be enforced, and that the system is inadequate to deal with those who break the Law, respect for the other institutions falls away and anarchy reigns.

There was a reason for my parliamentary questions about the Euro Bank prosecution, because I was trying to get some sort of handle on how much those kinds of operations are costing this country. I believe—and there are those who disagree with me—we have our priorities wrong. We have lost perspective. We do not have adequate funds to create the facilities which we need for the general administration of justice, but there were \$600,000 in the Budget last year for money laundering prosecutions. The amount of \$1.5 million is in the Budget for this year and based on what the Honourable Second Official Member said in his substantive response yesterday, and in his answer to some of the supplementaries, that does not include the cost of paying the QC from England who is going to run the Euro Bank prosecution during the course of this year. The cost of that Madam Speaker, is estimated at some £450,000 for this year.

Point of Order

Hon. David F. Ballantyne: Madam Speaker, a point of order if I may.

The Speaker: Please state your point of order.

Hon. David F. Ballantyne: My point of order is that according to my recollection the funding that is allocated for money laundering prosecutions includes the funding for counsel in this current prosecution. It is not

exclusive; therefore, in my opinion it is incorrect to say that the money for Queen’s Counsel is separate.

Madam Speaker, while I respect the view of the House and leave matters entirely in your hands regarding the line of the contribution of the Honourable Second Elected Member for George Town, I have to be mindful of the possible effect on a pending prosecution and I would not wish to have it appear in any way that it was being suggested that the prosecution was misguided.

The Speaker: Thank you, Honourable Second Official Member.

Second Elected Member for the district of George Town, I would ask if you would confirm the fact that you did not make it inclusive in your original remarks. If that is the case, I would ask you to correct that position. And, being an Attorney yourself, I probably do not need to remind you, but will out of the abundance of caution, to tread carefully as you debate so that we would not infringe the sub judice ruling as is set out in our Standing Orders which we, in my opinion, we have not done thus far.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I certainly do not want to misrepresent the position at all and I am grateful to the Second Official Member for having said what he did. Maybe he can assist me again when I give him my understanding of this.

The reason I couched what I said in those terms was that in an answer to a supplementary, the Honourable Second Official Member said that last year the money for a QC was paid from a vote in his Portfolio, but that this year the funding would come from the asset sharing fund. Now, the asset sharing fund is not a part of this Budget, hence my conclusion that the monies provided for in here, which are \$1.5 million is a sum over and above the £450,000, which, it is estimated will be required to pay Mr. Mitchell. I can sit down now and the Honourable Second Official Member can respond to this because I would like to make sure that we have it right.

The Speaker: Honourable Second Official Member.

Point of Clarification

Hon. David F. Ballantyne: Thank you, Madam Speaker. I will rise on a point of clarification in the circumstances. I think this is the case of one and one not making two. In fact, both propositions are correct: the money did emanate and does emanate from the Assets Confiscation fund, but it has to be brought into Government’s recurrent expenditure so it is one and the same money. Therefore it is not additional. The reason why it shows in the Budget is that it cannot be expended directly from the Asset Confiscation Fund; it has to be brought into government revenues first in order to do so.

The Speaker: Thank you for that expounding. The Honourable Second Elected Member for George Town, please continue.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker, I accept that explanation and in fact, I am somewhat relieved because it means then that we are talking of \$1.5 million this year rather than \$1.5 million plus £450,000 whatever that amount comes to.

As a matter of interest I wonder if the proceeds of the Asset Sharing Fund are shown in the revenue stream of government to balance the books, but I do not need a response to that now, it is just an observation.

I continue my debate and I am still making the point that whether it is \$1.5 million we speak about, or \$2 million dedicated to the prosecution of money laundering offences in the course of this year, I believe that we have lost perspective. We all know that figure is not representative of the true cost to Government. That does not factor in the Court time and the cost of paying the members of Government Legal Department who are engaged in that process. I am not in anyway diminishing the importance of prosecuting people for offences they have committed. But, when we divert the funds that were to be part of the sinking fund for the construction of a new Court facility for the purpose of prosecuting money laundering trials, and we have the grave circumstances which currently obtain at the Court, the lack of adequate facilities, I believe we have our priorities all wrong. And you see what happens as well is that these things take on a life of their own.

We do not have the means to establish proper permanent facilities for the Juvenile and Youth Courts but we somehow magically find the funds to fit out a Court room for a money laundering trial that is going to take six months. It is always a question of priorities.

When I raised the question in December about what was being done in relation to the undertaking which the Government had given some time back in September, I believe, about reviewing compensation for jurors, the Honourable Solicitor General who was then acting or temporary Second Official Member said the matter would be reviewed, but it was never the intention of those provisions to compensate jurors for the time they spend away from work.

Government had to bear in mind that this would have budgetary implications. All of that is absolutely right, but how can you take individuals away from their work and not compensate them adequately when it is estimated that the Euro Bank prosecution will take six months? In the context of a trial that is going to cost—and this is only my view and it is based on a number of suppositions—the best part of \$3 million. We have our priorities wrong.

Point of Clarification

The Speaker: Honourable Second Official Member.

Hon. David F. Ballantyne: Madam Speaker, may I intervene on a point of clarification?

The Speaker: Would the Member for George Town give way? Please proceed.

Hon. David F. Ballantyne: It may assist the general understanding, but it is intended that a Bill should come forward in this Session dealing with the issue of payment of jurors, and therefore the matter is intended to be addressed. I do not think it is appropriate to say more until the matter comes to the House but I felt that the information would be helpful in order to deal with this. I should also say, while I am still on my feet, that I understand that the Courts, albeit operating within constraints, have been able to make provision to deal with the administration of this trial and I am on public record as of the opening of the Grand Court having committed myself to support the provision of adequate Court buildings. So, I do not want the impression to be left that I am not sympathetic to that. Indeed I am, because I have a responsibility to this House and to the Islands in my capacity to support the administration of justice because I am part of that process and part of that system.

I would also just add for clarification that I am not familiar with the details of the allocation of the asset confiscation fund, although I am aware that it was proposed that there be a sinking fund established. I am not aware that that has happened, but I would support it. What I am aware of is that the asset confiscation fund is intended to be used for law enforcement purposes, and therefore the purpose for which one can disagree on whether it should or should not be used for certain purposes. But I am simply saying the purpose for which some of these funds, and certainly not the whole of them, was for a law enforcement purpose. I hope that serves to clarify how the funding was secured and also to clarify my own position in so far as its relevance. I do not wish to take up any more of the Member's time or the House's time. I fully support the adequate provision of Court buildings because otherwise there is no point in having prosecutions unless you can have them properly heard, defended and decided. Thank you.

The Speaker: Second Elected Member from George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I am grateful for that clarification and heartened that the Second Official Member has publicly stated his support for the development.

Point of Clarification

Hon. David F. Ballantyne: Madam Speaker, I am sorry but I need to say that this is not the first time I have said that. I did indeed say this at the opening of

the Grand Court. I am sorry to interrupt but I just wanted to clarify that point. Thank you.

The Speaker: Thank you. I also noted from the Chair's perspective that the Member from George Town did take his seat which implied that he gave way to the Honourable Second Official Member to so expound. Please continue Member from George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, again I am grateful to the Second Official Member for further clarification.

I do not want the Second Official Member to leave the impression that I never thought he supported these things. I know all of us, whether we are lawyers or not, understand how important it is that we have adequate facilities for the administration of justice to be conducted properly.

My argument, if it can be deemed such, is this question of priorities. Because what happens in life time and time again, in the little things and in the big things, is that the important things always give way to the urgent and that is when we lose perspective. And that is my point. I believe that with the assistance of the Second Official Member I have made the point on this matter and I am now going to move on to the other aspects of the Throne Speech. Perhaps, Madam Speaker, this might be a convenient time.

The Speaker: We shall suspend for 15 minutes and I would ask all Members to exercise due diligence so that we can have a quorum exactly in 15 minutes time.

Proceedings suspended at 12.14 pm

Proceedings resumed at 12.37 pm

The Speaker: Please be seated. Proceedings are resumed. Continuing the debate the Second Elected Member for the district of George Town with 53 minutes remaining.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. When we took the break I had just completed my contribution relating to the Judicial department. I would like to move on now to address certain aspects of the speech from the Throne in relation to the Ministry of Health Services, District Administration and Agriculture. I note that one of the key objectives for 2002 is enactment of a Health Services Authority Law. I am pleased to see that. I have always believed and I believe that the experience in this jurisdiction demonstrates the worthiness of statutory authorities to deal with certain aspects of government responsibility. I think it is fair to say that generally all of the statutory authorities; the Civil Aviation Authority, the Port Authority, the Water Authority, have worked well and are by and large self-sufficient and in some instances actually contribute significantly to Government's revenue

stream. I think that is principally because the relative smallness in size, as opposed to the big government machine, allows for more focused and efficient administration. Because they have a board of Directors, there is immediate accountability and because they are outside the ambit of the general orders that govern the administration of the Civil Service, they are able to offer more attractive salary packages and employment terms generally. I believe all of these things tend to contribute to a more efficient and focused machine. So I am happy to see that for the second time around, this country is going to have a Health Services Authority.

Madam Speaker, we all know that the administration of the Health Services Department has been problematic because it has been the subject of considerable debate and questions and answers in this Honourable House. There are huge sums of money outstanding to Government in respect of health services fees. I think the last figure I heard was some \$60 million. Hopefully, the transition to a Health Services Authority will assist with bringing these sorts of outstanding fees and the inefficiency that is apparently inherent in the collection of them, under control.

There is a certain, almost tragic irony in what has happened with the Health Services Department and the Health Services Authority which was established by law in or about 1990 when Mr. Ezzard Miller was the then Minister of Health. I say that because those of us who were around may recall that following the 1992 Election which Mr. Miller lost, the new Minister of Health was the Honourable McKeever Bush, who is now Minister of Tourism in this Government and the Leader of the United Democratic Party which currently governs this country. The Honourable Minister for Tourism, as he now is, was fundamentally against the concept of a health services authority when he was Minister of Health in 1992.

Indeed, shortly after having assumed that office in early 1993, legislation was brought to this Honourable House which repealed the Health Services Authority Law and dismantled the Health Services Authority which had been established in 1990 under the leadership of Mr. Ezzard Miller, the then Minister.

I also recall that in the aftermath of that election there was a Royal Commission of Inquiry called to inquire into the conduct of the former Minister, Mr. Ezzard Miller, and others, who were involved in the Health Services Authority and in particular, the proposed development of the Dr. Horter Memorial Hospital which was to be developed and administered under the Health Services Authority Law.

An irony in all of that was that Mr. Eddington Powell, I believe, assumed the chairmanship of the Health Services Authority from the former Minister of Health, Mr. Ezzard Miller, prior to the Election in 1992. The irony in all of this, Madam Speaker, is that ten years later the Minister who was responsible for dismantling the Health Services Authority and who now leads the Government, is re-establishing it. And the

Secretary of the United Democratic Party is none other than the former Minister of Health who had established the Health Services Authority in 1990, Mr. Ezzard Miller; and key player in the United Democratic Party, the former chairman of the Health Services Authority, Mr. Eddington Powell.

If it were not such a tragic and expensive lesson it would almost be comedic but it just demonstrates what politics can cost a country. In this case we have lost ten years. We have a Health Services system that has had serious administrative problems in not being able to collect huge sums of money owed to it by users.

Now, I am sure we all have learned lessons from this and apparently for all of us, rehabilitation and conversion is possible and it would appear that the Leader of the UDP has now been educated and converted. . .

The Speaker: Honourable Member, I would draw your attention to Standing Order 35(3) where no Member should use insulting and offensive language and to infer that someone is uneducated will not be allowed.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I wish to apologize profusely if I was interpreted as having said that, but I did not use the word 'uneducated'. With respect, I never used that word.

The Speaker: Please proceed.

Mr. Alden M. McLaughlin, Jr.: Anyhow, Madam Speaker, time I believe, teaches us all important lessons. In this case, it was an awfully expensive one. But I trust that the Health Services Authority will become established and that it will be structured in a way that it can deliver good, cost effective health care to the people of these Islands at a cost which the country can manage.

Moving on to deal with the Civil Aviation Authority, I note that this year is the 50th anniversary of the first arrival of a land-based aircraft in Grand Cayman. That is quite a milestone and one I entirely agree is worthy of celebration. I also wish to note the commendable position that, in my view, the Honourable Minister for Health Services, District Administration and Agriculture has taken in relation to the role of the chairmanship of this Authority.

I noted from an article in the *Caymanian Compass* some short while ago that the Honourable Minister for Health has come to the view that he should not as Minister chair this Authority and that to do so in his words, 'would be a conflict of interest'. That is a commendable position to take. It is a view I have held for a long time. One cannot effectively administer a ministry and at the same time sit as the chairman of statutory authorities that are supposed to report to the ministry. The ministerial position is one of oversight and policy-making; it is not a 'nuts and bolts'

job. I believe the Minister of Health has understood that and I commend him for doing so.

In the same breath I note that this has not been the case in relation to the Port Authority where the Honourable Minister for Tourism and Commerce continues to remain as the chairman. While I am on the question of the Port—I will leave the delivery of the treatise on this important matter to my good friend, the Member from East End—I believe it would be remiss of me if I were not to offer my view in general terms about what is being proposed for the development of the Port facilities both in George Town and in East End. Madam Speaker, I believe we are all *ad idem* that the facilities for cruise ship visitors need to be improved. Over the course of the past couple months I have been in attendance at a number of meetings called by persons who will be affected by the proposed changes in relation to the cruise ship facilities. I recognize that these people are concerned because they have vested interests in what transpires because they have properties in the vicinity. And those on the South will say that the cruise ship facilities need to stay to the South because they have invested significant sums of money on that basis and it would be unfair and inequitable to now move the facilities elsewhere because the traffic of potential customers will be reduced. And those to the North will say that they are not sharing enough of the traffic because they are to the North. There are arguments one way or another and it is difficult for someone sitting where I sit to be able to come to a view about that aspect of it.

There are some Members who have written me a note saying they are hungry and have drawn my attention to the fact that it is now the luncheon time.

The Speaker: In light of the fact that we just had a break, I propose to continue unless you are having some physical problem with your throat or any other reason.

Mr. Alden M. McLaughlin, Jr.: No, Madam Speaker, not me.

The Speaker: Please proceed.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, might I have an indication as to when you would take the luncheon adjournment?

The Speaker: I should take it at 1.30.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. So whatever position is taken by the Port Authority, and ultimately the Government, about the situation of the cruise ship facilities there is going to be controversy.

My view is that the objective of the exercise should be to achieve maximum utilization of the existing property and premises, minimum disruption in the services that are provided and minimum effect on the

people of this Island who have to use those facilities and particularly, the facilities adjacent to the Port, the roads in particular.

I have heard concerns articulated particularly by the Minister for Tourism and Commerce about safety. I believe I recall him saying that he has nightmares about the fact that an accident may happen as a result of the cargo facilities being in close proximity to the cruise ship facilities. That is the situation that has existed ever since. There are proposals to remove the cargo facility from the George Town location and as His Excellency said in the Throne Speech it is the long term vision of the Port Authority to utilize the George Town Port exclusively for cruise tourism. I believe that is both impractical and unwarranted. There is an acknowledgment in the Throne Speech that the Port Authority forecast no real increase in cargo tonnage in 2002 over the levels experienced last year.

The view that I have as a result of speaking with many people is that the cargo facilities at the George Town Port are more than adequate and that they are generally under-utilized. I believe that on a regular basis two ships call per week.

Now, if there are genuine safety concerns about the operation of the cargo facilities in such close proximity to the cruise ship facilities, would it not make more sense if operations at the Port commenced when the cruise ships left in the evening and continued until the wee hours of the morning? Alternatively, instead of proceeding with the construction of another set of cruise ship facilities to the North, which I believe is to be called the Fort George Terminal, would it not make more sense to convert the current cargo facilities to cruise ship facilities and construct cargo facilities further to the North, thereby distancing them somewhat from the cruise ship facilities?

But what is being proposed now at least in the interim, is going to sandwich the cargo facilities between two separate sets of cruise ship facilities which is going to increase (bound to) the exposure of cruise ship visitors to potential accidents since that is the concern involving the cargo facilities or the trucks that go in and out of there. What is the driving need for new cargo facilities?

There are aspects of the dock that need improvement as a result of damage done during Hurricane Michelle. I know improvements are necessary but once improved, those facilities will be more than adequate for current and projected need. Not only is the cost of removal or relocation of the cargo facilities in George Town going to be a monumentally expensive exercise, but the reality is—and that has been a foregone conclusion for at least a couple of hundred years—that there is really no where else in these Islands which is eminently suited for the development of a port facility.

It is plain that the people of East End do not want what is being proposed, at least in general terms, at Half Moon Bay. I know they are preparing

feasibility studies and viability studies but any of us who have been around this rock for any length of time will understand how impractical it is to propose a port facility at Half Moon Bay. Eighty, if not ninety per cent of the year it is too rough for ships to dock under normal circumstances. It will require some major artificial barrier or 'bulk-head' to even begin to think about doing what is proposed. And for what? In recent weeks I have been hearing little snippets about '*Well if it cannot go to East End we will put it in North Sound*'. And that brings me to this general proposition, Madam Speaker, what is it —

Point of Elucidation

Mr. Lyndon L. Martin: Point of elucidation.

The Speaker: Will the Member give way? Please continue Second Elected Member from Cayman Brac and Little Cayman.

Mr. Lyndon L. Martin: Madam Speaker, for the benefit of the Member speaking and for the listening public I would like it to be known that those snippets of the Port possibly being located in North Sound was never originated from the Government nor any Member of the United Democratic Party.

The Speaker: The Second Elected Member from George Town, please continue your debate on the Throne Speech.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker, I never suggested they did.

But, I come back to this general proposition. What is it as a country that we are really trying to do? We cannot build an industry by destroying the very things that make it attractive; that bring people here; that cause us to want to live here.

There are sections of the Throne Speech that deal with growth management and development and I was pleased to see that. Whether or not they believe me it was not directed principally at the United Democratic Party Government; this is a phenomenon that has existed in Cayman for as long as I can remember. We seem to believe as a people that the only way the country can survive is by having more and more development; the more development the better. And Government's fortunes seem to have been inextricably linked to development for certainly the last twenty to twenty-five years.

Governments survive because of the stamp duty that is paid on material that is imported for development, material, food, the work permits for individuals to be brought in from abroad to help with these developments. And so we become married to this creature called 'development'. Everything is driven by numbers, particularly the tourist or tourism game.

But the problem with that concept, driven to extremes as it generally is, is that in creating this de-

velopment, in trying to make the cruise ship facilities more attractive so we can bring more cruise ship visitors (when we really cannot accommodate those that come now when we have seven ships in the harbour at one time), we will go to East End and potentially destroy seven or eight dive sites which provide the attraction for thousands more who come on a regular basis and stay here. We have been doing this for as long as we have been trying to develop Cayman and we cannot build the country by tearing it down. We cannot destroy the things that make people want to come here and then have magnificent facilities to land, and when they get here what do they do?

God forbid, should the North Sound idea be floated again and finds fertile ground where it formerly found barren! We can 'kiss the marine environment of this Island good bye!' Those of us who know anything at all about the North Sound and about how it functions will understand how critical that is to the continued survival of our eco-system. Madam Speaker, I really hope that there is nothing more than rumours about that proposal. *[Pause]*

Madam Speaker, if I may have a moment.

The Speaker: Certainly.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I also noted an article in the *Caymanian Compass* a short time ago in which the Minister of Planning, Communication, Works and Information Technology announced Government's intention to amend—I am not sure whether it was the regulations or the Development and Planning Law—to restrict those persons who can object to planning development generally.

I believe that proposal has come about as a result of a decision of the Grand Court here, which found that the current regulation or law, allowed a significant number of individuals and quite a broad category of persons to object to applications for development and planning approval. As I understood, it was to restrict the ability to reject a proposed development to persons who own property within a 1500-ft radius. That, Madam Speaker, is the current regulation and the proposal, as I understood it was to reduce that number from 1500 to 500 and thereby reduce the number of persons who could possibly object.

Now, Madam Speaker, that may seem innocuous but it is not. When one thinks of proposals such as the East End port project, if it becomes that, will affect the life of every person who resides in these Islands. But if this amendment comes into effect it will only be those who own property within a 500-ft radius who will have the legal grounds to object. Others can object, but they can do so through the medium of the press or written letters.

Point of Order

Mr. Lyndon L. Martin: Point of order, Madam Speaker.

The Speaker: Please state your point of order.

Mr. Lyndon L. Martin: Madam Speaker, I think the information that the Member has just provided regarding the change in the regulation from 1500 to 500 is not factually correct, and I wish for him to give the date of the *Caymanian Compass* in which he read it so that I can verify that that was a printing error by the *Caymanian Compass*.

The Speaker: In fact, Honourable Members just asked the Serjeant to get a copy of the *Caymanian Compass* if that is possible, and if not, the proposed amendment. There seems to be a discrepancy, so perhaps this is a convenient time for us to take the luncheon break. We will reconvene at 2.30 pm.

Proceedings suspended at 1.15 pm

Proceedings resumed at 2.48 pm

The Speaker: Proceedings are resumed. Continuing the debate the Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, when we took the adjournment the Second Elected Member for Cayman Brac had risen on a point of order and submitted that some of the information that I had provided in my contribution to the debate was not factually correct.

The excerpt of the Hansard has been handed to us and I believe we both have had the opportunity to speak with the Director of Planning to ascertain what the true position actually is in relation to this proposal. Madam Speaker, insofar as I said *that the intent of the proposed amendment was to restrict the persons who had the legal ability to object to applications for development and planning approval to those who owned property within a 500-ft radius*, that was, and is incorrect. However, the situation is actually more worrying from my perspective because as we have confirmed, the proposal is to restrict those who can legally object to a planning application to those who own property within a 1500 ft radius of the site of the proposed development.

As a result of a decision of the Grand Court which had defined the category of persons who could object to proposed developments far more broadly, the proposed amendment is now being brought to reduce that category as I have indicated—that is, to those who own property within a 1500 ft radius.

That reinforces my concern that the effect of this proposed amendment, if it is carried through, will be to prevent persons other than those who own property within the immediate vicinity of, for instance, the proposed port at East End, from being able to make objections about the proposed project to the Development and Planning Authority. And as I said earlier, projects of that size and nature affect every

member of this community whether you live in George Town or East End.

In those circumstances all members of this community should continue to have the ability to make their objections to the Planning Authority and to have those objections properly considered in the whole process. I hope that I have clarified that ambiguity. I am grateful to the Second Elected Member from Cayman Brac for interrupting at that point so that we could set the record straight because it is the furthest thing from my mind to mislead the House or any one else for that matter. I am satisfied now I believe, as he is, that the record has been set straight.

Madam Speaker, I know that I am nearing the end of this new time limit. There are a number of other areas of the Throne Speech that I would have liked to make some observations about which I believe are demonstrative of the concerns that we referred to yesterday that there are times in this Honourable House—

Point of Order

Mr. Lyndon L. Martin: On a point of order, Madam Speaker.

The Speaker: Please state your point of order.

Mr. Lyndon L. Martin: The Member is attempting to revive a debate on a Motion that came to this House and was successfully passed to reduce the speaking time to two hours.

The Speaker: I have listened to the debate and thus far I think he skirted very close to the perimeter but has not entered therein so I would ask him to continue. I would also wish to bring to your attention Honourable Member that there are 16 minutes remaining. We did not include the clarification that you just made as a part of that.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I am again grateful to the Second Elected Member from Cayman Brac. He has again assisted in my deliberations.

So, I will move on to one of those other areas that I wish to say something about. *[Pause]* Early in his presentation of the Throne Speech, His Excellency the Governor referred to the efficiency scrutiny exercise of the Public Service that is currently underway. He posited that this exercise will leave the government machine in better shape to deliver those services that it is best equipped to deliver. I believe that that is a reference to the work of the Civil Service College who for some time now has been examining the Civil Service and its structure and administration generally.

I come back to what has become for me a familiar theme about the Civil Service and its efficiency and ability to deliver the services that the country

needs in order to govern effectively. The number of persons employed by the Cayman Islands Government is now in the region of 4,000, give or take 10 or 20. I believe that there is no way that the country can continue to sustain a Civil Service of that size unless we come up with some other means of earning revenue for Government which has thus far eluded our predecessors and us. And, Madam Speaker, unless we find meaningful ways of reducing the services that the Civil Service provide to the community; unless our people come to understand that they cannot expect Government to provide all of these services to which the country has become accustomed.

Mr. Lyndon L. Martin: Madam Speaker, I bring to your attention that there is no quorum. There are five Members of Government and two Members of the Opposition present.

The Speaker: Serjeant, could you please bring in the relevant numbers to ensure that our quorum fits Standing Order 13(1). *[Pause]* Second Elected Member a quorum is now present. Please continue.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I note that we started without a quorum so I am not sure why we needed a quorum to continue.

The Speaker: Second Elected Member, we started without a quorum because we have been having difficulty getting all Members within the Chamber within the specified time so I advised the Serjeant to take me into the Chamber. As I understand the Standing Orders, unless it is brought to my attention I have no need to question it unless there is a question that is going to be put at which time I will not call a quorum. Please continue.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I was saying at the time it was determined that you were not quorate, the people of this country (all of us) have to come to the realization that we have to expect less of Government because there is no point in us saying, as I say so often, that we need to reduce the size of the Civil Service if the country and the political directorate still expect to deliver the level of service and the range of services that we currently provide. We cannot do that, Madam Speaker. I hope that part of the result of this efficiency scrutiny exercise will be firm recommendations to give effect to the philosophy that I have just advocated. I hope that this is not one of those academic exercises in which long reports are written and placed on a shelf somewhere to gather dust and business continues as usual.

I would like to conclude with a brief discussion about the Legislative Assembly, Parliament in general and how things work or how I think they should work in here.

Edmund Burke whom the Honourable Minister for Education is very fond of quoting said in a cele-

brated speech to the electors of Bristol in 1774: **“Parliament is not a congress of ambassadors from different hostile interests; which interests each must maintain, as an agent and advocate, against the other agents and advocates; Parliament is a deliberative assembly of one nation, with one interest, that of the whole, where, not local purposes, not local prejudices ought to guide but the general good, resulting from the general reason of the whole”**.

In this day and age and with the way that the legislative process has developed, this may be considered by some to be idealistic but it provides a good reference point from which we all should endeavor to work. Everything that transpires in this Honourable House should not be under hostile terms. We should be able, understanding the respective roles, to be able to treat those who play those roles with respect: if not for the individuals, for the positions they hold – at least that, Madam Speaker.

Madam Speaker, Bruce Golding said, **“There is no joy in being in Opposition, you know. When you are in Opposition, you control nothing . . . If one is outside the ‘power loop’, one is ineffective and impotent despite the fact that one may be a duly elected representative of the people”**.

That is probably the reality, but it is a reality that should not obtain. The Opposition has an important role to play in providing a check on the otherwise unrestrained power of the Government. It is worthwhile to those who respect the democratic process to give recognition to the role that those of us on this side play, give recognition and respect for our abilities. And endeavour inclusiveness in the exercise of the legislative function.

For my part, I am happy and proud to be a Member of the Opposition, frustrated though I get sometimes, Madam Speaker, when I feel that my ability to make a contribution is curtailed; frustrated though I become at times when I believe I could offer assistance and I am not called upon to do so. But, I want all Members of this Honourable House and the listening community to understand that I could not be prouder of being the Second Elected Member for the district of George Town. The people of this country, and my constituency in particular, can rest assured that as long as I have health, strength and life itself, and as long as I am here, I shall do everything in my power to represent them to the very best of my ability. Even when efforts are made to stifle what I have to say. If I am unable by one means or another to express that on the Floor of this Honourable House, it will be expressed and the people of this country will know what my concerns are one way or another.

Madam Speaker, I am grateful to you and all Honourable Members of this House for indulging by listening to my observations on the speech from the Throne. I hope that my contribution on this occasion has assisted the process; has provided another perspective; has provided the framework for contributions

from other Members. And I hope it has helped to assist the whole process of Government, the whole process of this Legislature, and ultimately, with the better governance of these beloved Cayman Islands. I thank you, Madam Speaker.

The Speaker: Thank you. Just a bit of housekeeping: Honourable Member, I wonder if you could supply the Clerk with a copy of the last quote that you made, please. Thank you.

Does any other Member wish to speak? Does any other Member wish to speak? Last call. Does any other Member wish to speak?

The Honourable Minister for Community Services.

Dr. the Hon. Frank McField: Madam Speaker, I have finally come to understand the role of the Opposition and the ability of the Opposition to say absolutely nothing about what should really be done to improve the social and economic conditions of the people.

I was on that side in that same seat and the differences between me then and me now is that I really need to come up with social and economic solutions to the very extreme difficulties that the people are facing in this country today.

The last speaker, the Second Elected Member for George Town, spent an incredible amount of time trying to give the public the idea that they should have no confidence in this Government. I do not believe that Honourable Member's position is an objective one, because I sat next to him from the day of swearing in, in November 2000 until the 8 November 2001 (almost one year after the elections when the Government was changed) and that Honourable Member did not invest any significant amount of time in casting doubts and dark shadows on the will and the possibility for democracy to exist in these Chambers and outside. In my opinion he had a personal reason to support the last government and a personal reason to be against the support of this one, simply because the Leader of Government Business at that time was his friend.

However, that is not politics; that is ‘friend-friend’ government and I spoke about the ‘friend-friend’ government before and the inability of the ‘friend-friend’ government to really be a functional government in an advancing democratic country.

The fact that those relationships did not work is part of the reason for the bitterness in this House today, but I refuse to allow that Honourable Second Elected Member from George Town to make it seem as if the hostility that exists in here is simply because of the United Democratic Party politics. I think that what the United Democratic Party politics has brought to this Honourable House is a possibility for making decisions that will begin to positively impact young people's lives, old people's lives, women's lives, men's lives, given the kind of social and economic

relief that the people so well need in this country today.

That Member spoke for two hours, carefully choosing his words in order to be able to twist the minds of the people towards believing that he and the Opposition, which he leads, are the only individuals in this country that are capable of being honest and sincere. This country has not just today gone according to favouritism (who likes whom) because that Member had a possibility to have voted for an Executive Council in November 2000. That was the same Member – the Second Elected Member for George Town – that made sure that I was not a member of the Executive Council at that particular time.

Did he see the fact that he changed his position as destabilising, as dishonest, as undemocratic, as full of resentment or whatever? It appears to me that that Honourable Member, that Second Elected Member for George Town has very limited memory, in my opinion. He needs to get away from the 8th November, just like I need to be able to remove myself from that day with the turtle meat and the breadfruit when the conceit began! We all need to go forward.

On one hand that Honourable Member is talking about the virtues of the Westminster system and the Party system. On the other hand the fact that the United Democratic Party was organised before he had a chance to organise his Party, he is using the United Democratic Party's existence as something that is negative. But had he and his friends created a team system or a party system in the 2000 Election rather than running numbers short, they might have been able to be in a position to lead the country in the way they believe the country should be led.

It is not my fault that their reign was short because I was willing to have gone on a political platform with them, giving them additional strength, but I was not good enough, Madam Speaker. There was something wrong with me then and there was something wrong with me in November when they sat down and ate turtle meat with me. And now they come here to accuse us of being undemocratic; of being unfair; of not representing the true wishes of the people as if they are the only ones who look like the people, who talk like the people, and that can truly be representative of the people.

I beg to differ this day with that group that calls itself a clean Opposition. I beg, Madam Speaker, to differ. I know where I have come from, I know where I have been and I thank God that I know where I am going. But I say there has been too much hypocrisy in this country. There have been too many attempts to 'sweep-sweep the conceitedness and the prejudice under the bed'. If we had been able to come together as a group in 2000 and work out an orderly way to run as candidates and to win and to form governments, we would not have been needing the United Democratic Party to come in order to have enough cohesiveness to make it possible for Government to make those decisions legal by having the ma-

ajority behind, supporting those decisions in this Honourable House.

I do not know who talked to whom in November 2000 and said that Frank McField was not good enough to be a member of the Executive Council, or why Gilbert McLean could not be a member of the Executive Council. I heard that people talked to people about that and that was the reason we got into the position of the 'horse-trading' going to West Bay. I did not cause that.

I have tried to tell people that I have not stolen anything, so when the Second Elected Member for George Town gets up and says how the people of this country are so upset by what happened on the 8 November and how undemocratic that was. He needs to remember that he was the one who put this entire process into gang! Phase one was at the house of the First Elected Member for George Town.

I do not necessarily want to go back to that situation again, when there are so many valuable things to be done in this country, but I refuse to stand by when that Member has this attitude as if he is 6 or 7 feet tall, hovering above us showing us how small and insignificant we are; how much more improved he is than we are. Why? Because his education makes him any better? I doubt so.

There are a lot of things that have gone on in this country that upset those persons who would prefer what I consider to be the status quo to continue to exist. I remember when I was a Member of the Opposition with the First Elected Member for George Town, the Lady Member for North Side, the now Minister of Education, and the Minister of Tourism. We were boisterous against the then government of Mr. Truman Bodden, just as the Opposition is against this Government of the United Democratic Party.

I remember the confrontations that took place here between 1996 and 2000, and I thought the reason this was happening was because there were people who were interested in getting power in order to improve the lives of our children, old people, the poor and the working and the dispossessed. However, it appeared that they were more interested in power for 'friend-friend' things and not the real people things!

That is why when I answered the question in here yesterday about remand facilities for youth, I commented that as a person who came out against the way our society refused to accept the fact that we had social problems, that we had poverty; that we had people who did not have the ability to communicate positive values to their children, I was fired from my job. And now I have the possibility to make a difference.

I come in and the first thing I must do is to build Prisons to put those children in who look like me and have my name! Why should I want to make that my historical legacy? Let it be the legacy of those who advocated it, and were willing to finance it. Not me! Not me! I want to find a much better way of dealing with our youth problems and that is why I was happy

to be the chairman of the Commission of Inquiry into Social Breakdown and Youth Violence.

That is what we should have been talking about here today rather than how undemocratic we are simply because he happens to be sitting where I used to be and I am in this seat where he thought he should be. Well, let him wait until 2004, if that is the fate. But until then I will work to try to correct a lot of the social breakdown problems in this country by investing and having a hands-on approach to problem solving.

I have taken over one of the most difficult subjects in this country being that of Prison. And I believe that I have taken that on not because I believe that I can solve problems that others cannot, but my heart is with the people who are there, with the mothers who are crying, because the people who are there are not there because of any bad nature that they have but because of problems they have with drug abuse and use.

Madam Speaker, that is what I would like that Honourable Second Elected Member from George Town to be able to get up and speak with passion about his dedication and his feelings for what is out there today. Not what the Leader of Government Business is, on a personal level.

The Leader of Government Business is one among equals. We are all champions of causes and my cause might be a lot smaller than their cause but I am the champion of it. And I am proud that I have come this far believing that there are ways that we can begin to mend the social fabric in this country, which has been broken down because of rapid economic development that did not pay any attention to the changes in values. The impact that foreign values external to ours were having on our people, when there was no one there to counsel them and give them the feeling, is what we were criticizing between 1996 and 2000.

Now we get to 2002 and I am being told that the real problem in this country is me; my government; the government that I am a part of. Not the past, not the future, but now. But I believe, Madam Speaker, that we need to look closely at the need in this country not just for extended Court facilities as the Honourable Second Elected Member from George Town has spoken of. It shows his priorities.

Yes, law and order is necessary for good governance, but so is affordable housing; so are the benefits to our seamen; so are schools; so are all of these social amenities important to the maintenance of order. But he, coming from where he comes, picks out the Courts as that which is necessary for social cohesion in our society.

Madam Speaker, why did he not talk about the pre-school programmes; the after-school programmes; the need for us to continue to finance after-school programmes that were cut by the last administration between 2000 and 2001, at least until the 8 November. Why do we not talk about the priorities of

that administration to go along with this 'arm-jerk' reaction and build a facility to lock children up and spend \$60,000 per year to incarcerate a young child whose parents cannot even make \$15,000 per year.

If I sound impatient it is because I see these problems and I feel these problems. They are happening to people who are like me. I have had no desire to remove myself from being able to see the suffering, and regardless of whether or not I am Minister for Community Services or not, I find myself in the same neighbourhoods speaking to people about the same problems.

Just this morning while I was going to my office to meet the new Chairman of the Adoption Board I stopped at the Police Station where the Cayman Islands Marine Institute was picking up children who were at the lock-up. I know these children and I stopped to talk to them. I am not just leaving it to the professionals; I am involved. I met one of the girls from the Marine Institute in here yesterday and said to her, *'We are here for you, we are on your side, we are willing to fight with you as long as you are willing to show us that the opportunities which we are offering you, will be taken seriously'*.

We are trying to make sure that those children are not permanently locked up. Locking children up is not the way we intend to solve the problem. There are a lot of people who are saying that a secure residential facility will give us the possibility to solve the problems, but those people who are saying that know nothing about social development.

The majority of people that are informed about youth development will tell you that if you are going to punish children but never reward them, at the end of the day all they are going to do is become hardened to your punishment. They will learn like all human beings have learned—to adopt themselves to the conditions that you now mould them into.

All we have to do is look at war and look at areas in the world where people fight wars and we thought that they could not live under those conditions for so long. But we see how long people can live under these adverse conditions—how they can adopt themselves and tailor themselves to all kinds of conditions. It is the same with incarceration.

The child, even more so than the adult, will be able to condition himself to those particular types of environments. So, it is not a solution, and whose children are they? The poorer class people's children. The other people can get their children out of problems.

In doing our inquiry into social breakdown we found out that the problems of juvenile delinquency go across the social spectrum. It is not limited to any one particular area or any one particular group, but the point is that the resiliency of those particular families that are better off educated and financially, they are not going to allow their child to go through the juvenile justice system and end up locked up. They are going to get tutors and counsellors. They are going to fight

to get their child out of that system because they know that to institutionalise them is to 'finish them off'.

So, we have no solution to juvenile delinquency in residential facilities. We have (as has been suggested by His Excellency the Governor in his Throne Speech) to look at alternatives. We must see detention not as a building, but as a continuum of supervision. We can go from zero supervision, where parents are not supervising their children – one reason why we have this breakdown – but should we go from zero supervision to the lock-up? Madam Speaker, what have we tried between that and the lock-up? Absolutely nothing!

The CIMI was a good experiment, but it has gotten really run down. It did not have the necessary manpower to have it functioning to benefit us at that particular time, so we lost a very important facility. We have done much already to correct that problem in the hundred days that we have been in office as the United Democratic Party Government. That is a much shorter time than when the friends of the Second Elected Member from George Town were in power. I have gone in there and have identified a lot that can be to improve social issues in this country because I did not have to wait to be elected to be interested. I did not have to wait to be elected to have knowledge of the problems that I would be dealing with. That has been my life long commission.

One of the first things we did in the Ministry of Community Services, Women's Affairs, Youth and Sports, is to convince the Executive Council (the United Democratic Party Government) that pro-social behaviour is something that Government must actively encourage. We can no longer have the laissez-faire attitude toward socialization and social control that we had before. Because there are circumstances that cause certain families not to be able or willing to look after the supervision and nurturing of their children. And as a result these children get involved in deviant behaviour. They learn it in their homes by seeing domestic abuse, by seeing parents resolving disputes through the use of violence rather than communicating and compromising.

So, we just cannot go into areas into our country where we know that these children are coming from and say, *'What we had to offer you is a nice little barbed wire fence for your children because we really believe that they will be safer there and the society will be more secure'*. But what happens when they come out, Madam Speaker? They will come out one day, maybe twenty years down the line, and we still have to start at that particular point again trying to find some way of actually getting them to recognise their responsibility to themselves and to society.

So, pro-active pro-social behaviour is part of the whole objective of community development. We do not wait until we see the breakdown before we do something because community services for too long have been based upon reactions to problems rather than being proactive. If we go into neighbourhoods,

for instance, and find that children are organised in sports; football, netball, basketball, one of the things that we can do is we can say, *'Look we are going to support sports but we find that we are spending at this time \$200,000 more on youth and sports than we are spending on substance abuse services'*. Substance abuse services are not necessarily services that are always preventative services. Many times it is a reaction to a problem that is already there and therefore, you invest nothing in actually trying to prevent the problem.

One of the first things that we did within the first thirty days of the new administration, after the 8 November, we went in and said that we wanted to talk with the Football Association (the players) to arrange a contract with them where National Team players become pro-social role models. So that we actually elicit them and support them financially, and as a result they behave, publicly, in a particular manner, not just on the football field but also off the football field. We also justified that due to the fact that football had been the national sport in this country as far as we are concerned. We also know a lot of football players from all the different districts, women and men who have brought football to a point where football activities can really work to create a kind of community bonding and wholesomeness that would act against the development of anti-social behaviour in our communities. And some communities, believe it or not, are more impacted by anti-social behaviour than others. So, the children in these communities are more vulnerable than the children in other areas, although children in other areas can and do get involved with asocial behaviour as well.

From the time I came back to this country in 1977 we have known that certain areas were more prone to suffer as a result of these types of asocial values and behaviours. Therefore, the children in those areas needed to have particular attention. From as far back as then I advocated a pre-school system. I do not know what I was called back then, but I do not think that I was many good things back then because I was 'racist', 'racialist', et cetera, because I was talking about those children. But all you have to do now is go up to Northward and see who is there. All you have to do is go and see who is at the Marine Institute to understand that until we get our thinking to a level where we can focus in on the people that are being affected by these particular vices in the society we are not going to be able to do anything.

So, we have decided as a Government to invest up to \$182,000, I believe, in giving our national football players an opportunity to bring the standard of football and positive character to a new level. We are not saying that money by itself can accomplish those things. We do believe, however, that in a society where punitive reaction has been the norm it is time that we begin to set a new standard. One whereby a government minister feels that he is close enough to the people who have been affected by these issues,

to try to more gently persuade them to comply with our general socialisation and social control policies.

Madam Speaker, knowing that the Second Elected Member from George Town is from a district that has a lot of social issues, housing is what I would have liked for him to talk about today. We have identified the lack of proper housing as one of the chief causes of social breakdown for the children who are giving us these issues in the schools and outside the schools. One of the reasons they are on the street is that there are too many people at home. It is crowded. If you go to poor countries you see a lot of people outside because there is more space on the outside than there is inside. So, being on the streets is just some time to develop some kind of individuality and to 'have some space', as we like to say, 'for yourself'.

There have been political talks about housing in this country for 'donkey's ages' and no government has been able to tackle this problem with any kind of commitment. This Government will do so. This Government sees that there is a need to change laws in order to make it more feasible for poorer people to be able to pass the Planning bureaucracy's obstacles to be able to own a piece of land.

Madam Speaker, if the size of the land has to remain the same; if the lay-backs have to remain the same, if the poor person has to fit the same conditions all the time; if we are going to legalise a particular standard of living, when people fall below that standard of living Government should have the resources to make sure that they get back there. So, if you do not have the resources to make sure that they can stay on that standard you have to become more flexible about those standards.

I believe that I bring a valuable perspective to this Government. That is a perspective that had been lacking for a long time. I believe that when I came in here in 1996 I brought it to the House. With no disrespect to the Minister of Tourism and Leader of Government Business who I think has done a tremendous job in concentrating on these issues, I think I have something also to offer. And since that Minister is interested in perhaps creating the foundation for us to be able to make the social changes, I believe that his job is best served out there in the front while we take care of these issues. Without the economic foundation and development, we cannot pay for these social programmes which we so badly need.

I see the Scranton area in George Town as an area that is filled with love and cohesiveness. People only need to go to functions there and they understand and all talk about how good the people are. We have social problems in those areas. We have youth problems, drug problems. Many of the people who seem to be there with the drugs are from outside the neighbourhood but they just go there to deal their drugs.

Madam Speaker, we need to get into those areas and do some urban renewal. My dream is that we will be able to go into the Scranton area and con-

vince the larger families – communal families – that need to stay together and not move out some place to Bodden Town, East End or North Side, but instead to remain a part of that George Town community because that has been for a long long time a part of the George Town heritage. And the more I read our history the more I understand why it is important to keep those communities in tact.

Madam Speaker, I have this dream that we could go into the area and convince people to pool their land together that we will have land that Government will say, '*Here, let us have a housing Co-op in this area, you people will own it and Government will help you to achieve this and Government will put in a few million dollars maybe even the private sector and we will not have separate homes*'. Because a lot of people have already learned how to live together and how to share, work and rare children together and how to build some nice town houses in that area. Maybe they will have a few little shops, and maybe even the tourists will find some attraction in that area.

That is the vision of the United Democratic Party. A vision about the development of people and not a vision about castigating people because one person who was a member of the 1992 government is now the Secretary of the Party. And because there was a disagreement about whether or not they should have a health authority board that should mean that these people should not get together.

The vision survives the death of the dream and I am happy that I find myself in Government at this particular time with a leader and with other Members who are socially conscious; who think about poor people and disadvantaged people. As Minister for Women's Affairs I believe that the gender policy is important and we just had the possibility to have a report on the gender policy to the Executive Council. I might say something more about that as I go on that the person we have responsible for the gender policy at the moment is Estella Scott.

We realise what gender consciousness means—the gender perspective. The Second Elected Member from George Town said that we have no perspective. That is not true. We have many perspectives. I have shown you the perspective on youth; I have shown you the perspective on housing; I have shown you the perspective on social development, and I would also like to tell you a little more about our perspective with regards to gender issues. A lot of us think that gender issues mean women's issues but gender issues are not women's issues; gender issues are about the relationships and the roles; the inequality in terms of the way in which the role between the two sexes are constructed which leads to a lot of abuse.

One of the main areas that we must address is the maintenance of children. That is a distressful area and I must say with all sincerity that in all of my struggles I have tried to stay away from the whole idea of fathering children, because I think it is impor-

tant if you have children that they be your future and that your future should not be limited like your past. You have to be able to pass on something more important to your children than was passed on to you. It must be representing some progression. I have never talked about that before but I really take it seriously.

So this distortion in the relationship that occurs between the sexes causing men not to want to support their children, not only makes their children suffer, but also the women, and ultimately the country. And they suffer because they are not able to realise that from that incredible act the full potential and meaning of it is to carry themselves into the future in a more positive sense.

There is no point in doing it if we are involved in wars, et cetera. I think that when people take the time out to father children, they should take time out to cherish and maintain them and the law must reflect that. And we would like to see, as has been suggested by the gender policy, that that Law is looked at more seriously and that the amendments be made in order to get this.

Madam Speaker, I am a man and as a man I guess it is like everything—we always think as soon as someone accuses us of having an unequal relationship we say, *'No, no, no I am alright, it is not like that, it cannot be like that'*. So, men are resisting the whole idea that somehow there is an inequality in the gender relationships. Just like there are those of us who still believe that to even mention the word 'race' in our society and the disadvantages that are sometimes dealt out to persons because of their complexion – not necessarily because of their race – that it is something we should not mention because we are pure and we do not want to be questioned about it. But, Madam Speaker, it is always useful to ask the question, 'Are we being as fair to each other as we could be, and if we were fairer would not our society be more beneficial to all of us?' So, I think those people who do not want persons to question on that level about these particular perspectives are not very fair. If we have nothing to fear then we should have no fear of questions.

It is important that the gender policy be regarded seriously whether or not we are dealing with the issue of Immigration. We find that domestics who come here and work in homes, they themselves have children who are becoming delinquent in another country and we have no sympathy for them because they are working in the domestic realm rather than the public realm. But without the domestic realm you would not have the public realm. So, why is it that because a woman works in the domestic realm she is paid nothing and she is treated in a particular way, while those who work in the public realm are regarded to be making more contribution?

All of those things are issues that come into play in the gender policy and those are questions that we need to ask. For instance when the domestic who is taking care of your children becomes frustrated be-

cause of poor living conditions and poor pay and her children in Jamaica or Honduras, or wherever, are worrying her the possibility is that she might not necessarily take care of your children in the right way. Making things right with people is important because it influences the way we interact and the way we contact. So, the gender policy is a worthwhile policy. Women's Affairs is therefore an important part of my Ministry.

In office I noticed that there was a plan for a house of safety for abused women. There was a plan to spend a million dollars, but I said that it would take a long time to get a million dollars to spend and that it might have been quicker to get a few thousand dollars. So, one of the things I did was to take this before the Executive Council where it was agreed that my Ministry could get \$250,000 towards providing a shelter for abused women.

Madam Speaker, this is a policy that the UDP Government has made possible. We have identified the house—long before Christmas but this is being held up just a bit because of government bureaucracy. I am sometimes amazed at how that works. But it will be done: the vision survives the death of the dream. We will be able to get the community and the women's groups involved, including the Women's Resource Centre getting it to the level where people can feel safe if they have problems in their homes with their spouses. And the Police do not have to go in and pick the husband up and lock him up for the fear that something bad might happen. So, the possibility is that the woman could go to the shelter until she is able to sort out the next move to be taken in order to improve that relationship.

Madam Speaker, the Police have a family unit now which I believe would be totally ineffective if we did not have a shelter for abused women that the Police try to protect by going to the homes. It does not make any sense to put one piece in place and not the other piece, which is necessary. That is uneconomical.

So, the UDP saw fit to allow this to happen. Now this is happening within 110 days of our Government and I believe that is a very important test of our common sense approach to problem-solving. We have a hands-on common sense approach to solving problems. We are not waiting for everything to be big and gigantic for it to happen.

In all that the Second Elected Member from George Town has said, he has not once referred to anything that the Government has done that is positive. And he comes here today to talk about the needs of the Court. I am talking about the needs of abused women; I am talking about the needs of children; I am talking about the needs of single mothers who need the homes in Scranton and in Rock Hole and other areas.

Madam Speaker, if we the United Democratic Government do not bring in housing before 2004, then we should be voted out. If we cannot improve the be-

haviour of our young people, then we should be voted out; if we cannot do anything to curb domestic abuse, then we should be voted out. But because the Second Elected Member from George Town thinks that we are not acceptable people, should that be the reason why we are voted out? This Government still has two years and nine months or more. If that is the way he is going to bark he will be barking for a long time. He has to come up with something more concrete than the fact that he knows how democracy works.

Let me say something about democracy. There was democracy in this country before 1834, but before that time people like me could not vote. People like me could not sit in the democratic halls and that to me was not democracy. One man's interpretation of democracy is obviously not another man's interpretation of democracy. So, let us be very specific about this.

Whereas one person might think that we (the UDP) are the worst people in the world, others might think that we are paying attention to the issues and causing business persons to feel welcome to invest here. And that it is not about us cursing people about being bad simply because they are developers. As I have said, without the economic base there can be no positive social policies or changes.

I know the Elected Member from East End will get up after me and he will say certain things about the dock in East End because I went on the radio and said that I thought it was a good idea to build a dock in East End and how it would help to give the community the economic base to be able to develop socially. Now, that Member from East End is criticizing Government for everything but he wants to talk about housing and wants to know when are we going to build a park there for him so he can get the credit for it. So we must give him everything that he wants and he gets credit for that too while he continues to criticize us. What an ideal position! If I could have it I would go back on the Back Bench, but it did not happen in my time! I am always trying to find a way of getting those things but maybe my dear cousin is a lot smarter than I am. He knows how to work it because what happens here is, after he finishes in this Hall he comes and laughs and chats with me and gets me all 'sweetened up' on his side again just so he can get everything he wants, and comes in here and gets me the next day. [*chuckle*]. This is what my dear cousin does to me. Sure. But it is important for him to know that without the funds to invest East End cannot progress. He would prefer if those funds came from Government yet he is against the Government revenue measures.

The people from Dart Management Limited will be doing the park in East End. So, when people are talking about developers and development we understand that at the end of the day the same people who are complaining against development, they themselves need the developers to pay for the development that they want. It could not happen without someone paying for it. So, even if we have to take

money from developers here to put into government coffers to pay for what he wants, or whether or not the developer, through some kind of corporate responsibility helps him to get it, ultimately it comes from the same source.

All of these things have to do with what we consider as the redistribution of wealth where somehow the richer people contribute either voluntarily or through government taxes to the general upkeep of the society. But interestingly, this question of the Dock as the Second Elected Member from George Town said—well, I am not going to say anything further about the Dock because there is a Minister responsible for those things.

However, I would like to say something because of the East End situation and because I was told that certain people think that maybe I spoke out of turn in saying that I believe that it would be good for East End. Madam Speaker, I cannot discuss the issues of the weather and all the other Marine issues, but I was speaking from the point of view of jobs. I heard that the Labour Department or the Employment Services Centre did a survey in East End and the unemployment rate there is alarmingly high. I wonder what industries will my good cousin get for his district soon in order to provide the economic base for the preservation of the social system and the social structure. Where is he going to get the development to provide the jobs to create the community base which is necessary in any society? For if George Town did not get any development, it would be a lot worse off too, but I have been told that one of the respects that a lot of my people in George Town have for the Honourable Leader of Government Business is that he does a lot of things for his district, and that we in George Town do not do enough for our district.

I would hope that the Members all understand that I intend to try to work along with the Leader of Government Business and other Members of the United Democratic Party to make sure that George Town benefits from the development of parks, housing development and that George Town comes first in terms of receiving these particular facilities or amenities for its people.

Now, I need to find out from the Second Elected Member from George Town whether his role will just be a role of Opposition or will he get involved with us in trying to provide George Town with parks, housing and to give George Town the kind of social face-lift by getting involved with sports and young people. I also want to find out whether or not he will assist us in achieving the revenue base which is necessary in order to accomplish these things.

Madam Speaker, prison is an important part of community services. It is necessary for us to see that if prisoners are only 'warehoused' (a term I got from the prisoners themselves and I am quite sure that it is used outside their fraternity), what they are saying is that if we just put them there for a certain amount of time to do time, and nothing is done other

than time being lost, they come out and before long they go back again. So one of the problems the Prison has suffered is the inability to be able to compete with other priorities for revenue.

So, when the Second Elected Member from George Town gets up and talks about the Court, and although I realise that the Court needs and has needed for decades, when he was in charge of the government (sort of) from the Back Bench for that one year, the Court did not get anything. But we are in here for a hundred days and the Court is supposed to get. Now, I do not understand that too well. There was a whole year when the Court could have gotten when he had his influence and the Court did not get. I wonder why.

So, now that I am here I want to see the Prison get a little bit of the change too because that is where I am trying to turn things around. That is one of the reasons why it is changed to an Elected Minister to fight for funds for the Prison because, Madam Speaker, let me tell you, please, if we do not do something about the Prison, the Prison will do something about us.

We believe that discipline and structure should be the bedrock of the regime in the Prison. And since I have had responsibility for the Prison, each Friday morning I have met with the Director of Prisons. He gets more time than anyone else in my Portfolio does and we talk about things and he reports on things. I have said to him that I support the Director, I support the regime, and I do not support anyone trying to run it from the outside or the inside other than the regime. If the regime is weak then in time we will deal with the weaknesses if we can and will perfect them. But we will not make it stronger by the kind of interference which we have had over the years.

I know at least enough psychology to be able to figure out that if you do not support the man on the top you cannot support the man in the middle. That is the way it has to go. It is not that we are not aware of issues in the Prison but we have to take time to reform it in such a way that it will be meaningful and have that kind of impact that it should have in our community. That Prison also—if we had a Court system and the Court sent people to prison but there was no prison to take the people in, the Court would not be able to maintain its order and, therefore, the stability of the society would also be at risk.

Let us not take off the necessity for putting more money into the Prison. The Second Elected Member from George Town can be assured that what we want to do is to build a particular cell block that would be a hardened place for people who are trafficking drugs to this country. It will be built out of cement. They will not be able to put fire to it. We are going to build it in order to deter people from bringing drugs into our country. It is going to be a prison-prison block, a hard block.

Madam Speaker, we are fed up. With all the money we are spending on rehabilitation the people

are just taking it in and nothing is being done. The approach to this particular problem of solving the drug issues in this country must be a multifaceted approach and the Prison has formed a very important part of the link in that particular approach. The UDP, believe it or not, this issue has been taken to caucus and the young democrats, especially in the Party from Cayman Brac and West Bay, have agreed that they want to see a much stricter regime there. So, every Friday when I meet with the Director I have to remember what they are going to tell me the next time I go to caucus with them. *'What is happening with the Prison? We hear this is happening, we want to make sure that the regime there is strict'*. We want to be merciful to people, we want to give people the possibility to rehabilitate. We will provide those facilities but we must show people who are importing drugs into this country that they are not going to come here and get a seven-year sentence and then be out in two-and-a-half years because they sat in a place where they learned how to develop computers, et cetera, and then go back to their societies to be even smarter criminals. We want to make sure that when they go they do not want to come back because we are going to make our jail here just like their jail.

Madam Speaker, we want to make it known that as Minister that I have the backing of the UDP and I have the will to see this through because it is a very important part of our Prison reform system. That is what we want the Opposition to know; that is what we want the Opposition to support; that is what we want the Opposition to discuss. That is what oppositions are all about: to scrutinize the policies of government and not to get into the kind of situation that I heard the Second Elected Member for George Town get into. Basically, what has he said other than that we are no good? That we got here through illegal means and that the people disapprove of it, although he goes around explaining to them that constitutionally, what happened was legal. He still says, *'Well the people said no, it should not have happened'*. He must be really in a good position because on one hand he believes it was constitutional and democratic but the people do not believe so.

Well then, he needs to show the people that democracy is about more than how we feel about people. Democracy is about rules and precedence and as long as you are within those rules and precedence when you do things, it is democratic: it is legal.

It is really a good position when you can say to people, *'Boy, you know what happen, the United Democratic Party took over the country and the people vexed with them boy. I know they are going to kick them out in 2004 and you could see me being minister in 2004'*. Madam Speaker, do you know what is going to happen to those people? They are going to go simply because the people say what they did on the 8 November 2001 was bad. However, there must be some other standards that the Honourable Member attaches to us. It must be some other qualifications.

He must look at the record that we have already created. He must look at what we will do because we are not idlers. I did not spend my life trying to get here to do nothing and to have no impact whatsoever. He must totally underestimate me.

Madam Speaker, as a matter of fact, one of the things that I would like to do—all this talk about gangs in our society—is, I would like to see the real people that can reach the gangs work with them. We have this whole idea—and it is real funny—how everyone is so perfect. They can see the problem there and the perfection is here and there is no mixture. No mixture. No exchange. I want to get people from the neighbourhoods involved: people who know the children and whose children are their children too.

We have money to hire three youth officers but I will bet you that the general conception would be, *'Let us hire the people who are going to sit behind a desk.'* And it would be just the same way – they still would not know how to get into and feel comfortable in those neighbourhoods'. But do you think that is going to happen with me as Minister? We are bringing in our youth officers on contracts; we are not bringing them in as civil servants for them to feel privileged that they have a job now and they are not going to do the job that they were hired to do because these children are too difficult. No, this is performance-based. They must show the result. Their contracts will only be as long as they can perform, and after that they can go some place else.

What happens is that Government is very quick to go and create, but it does not want to break down the camp and go somewhere else. Sometimes it is necessary, however, to shift in terms of your focus, so, you have to take resources from here and put them there in order to emphasize that.

We want to have people in the grass root communities working for this. Already I have instructed Rehoboth to take on one of the mothers in those areas to begin to work with children in those areas, and we are going to fund them with the money to be able to do that. I cannot sit down any longer and understand the dynamics of the situation and think that I am going to hire people on the other side of the fence to influence the people on that side of the fence. Our programmes are really pro-active programmes. The Second Elected Member for George Town needs to get involved with what we are doing in our communities.

So, I think that I am definitely excited about my possibilities to make a change. This is what I have been dreaming about. The vision, Madam Speaker, survived the death of the dream. The vision, Madam Speaker, is the United Democratic Party; a cohesive group of people who are social thinkers and social feelers. We come from the roots. If anything they can say about this Government is that these are people who are not privileged. They do not come from any privileged group and they have a love for the people, the common Caymanian folk.

Madam Speaker, my mother at her age (God bless her) is out again doing things and feeling excited. We want to get the older people into the community centres during the day. Not sitting at home and waiting for the burial but coming out and working with the youth and feeling that they are a part of the community again. This is what our Government is doing. This is what our Government should be held responsible for. This is what our Government should be criticised for not doing if we fail to do it. But not back to the 8 November again. We have gone beyond that. We are now at the point where we are doing these positive things in our community. It is time that all of the services—and as you can see Social Services is put within my Portfolio so that we could have more cooperation and coordination.

Substance Abuse Services cannot tell me that they are not going down to the Marine Institute to treat those children; one cannot tell me that he is not going to help a person who needs some help. But at the same time, I can talk to the Minister of Education who is also the Minister responsible for Employment Services so that we can help people to get jobs. But when it comes to a point they need to take responsibility because we are not developing a social welfare state. We certainly do believe that social welfare is an important part of our social control strategies and without it the society would have to solve its problems in too much of a confrontational manner.

We are going into communities like Scranton, Rock Hole, Banana Walk and Goat Yard. We are going into all of those communities not to fraternize with them: not to win their votes but to get them to follow us not politically, but to see the vision that we have for them. A vision where they will be able to live in their Cayman Islands community connected and not disconnected. It is not the development that the people fear; it is the fear of being pushed out not having any power, usefulness, benefits, or any relationships.

So, Madam Speaker, we need to recognise that the Portfolio of Community Services is what Government must depend upon to knit the social fabric back together again; to repair the damage that was done; to reform the social institutions; to extend the drive for co-operation and coordination; to make sure that development really impacts and improves the standard of living for the people.

Madam Speaker, I am a member of the History Committee and new history will be published next year. It will be interesting how people will react to that history. One of the things that I found interesting was, and probably I will be talking about that in my lecture during Black History Month, people think that if you are talking about Black History Month that what you are really talking about is divisions. I think what our history teaches us is that we started divided but circumstances and choices cause us to become closer and closer related.

It is interesting to see the role that religion played in the socialisation of our people and providing

the foundation for them to be able to embrace and accept one another, thereby giving us cultural traits that were very similar, even though the complexions of the people differ. This was possible in a small society and one that was somehow brought together under one cultural umbrella by the Presbyterian, Wesleyan and Baptist churches.

Madam Speaker, I think we need to understand that all of these things that we do, including looking at our identity, are not useless, but rather positive. In remarking about that, for instance, one of the issues is that a lot of persons criticise the young people for looking at Black Entertainment Network (BET). They see how these children begin acting like black Americans in the urban or ghetto areas—because let us say that that particular group of people from the point of view of their class and the way they act is very varied.

But, Madam Speaker, that they would go and get an identity there, or identify with those people. How is it that they are talking to these children and getting their attention? We are not talking to these children and getting their attention simply because every time the child might even think so, we do not deal with those children about these issues. But of course children ask questions; of course children can see differences.

The fact that they do not have any sociological importance is different. So, maybe their attention was there simply because we never talked about it. Maybe we need to talk about it so they can have it in their heads the way we want and not the way someone else wants. That is the way I think we can become pro-active again. We should have been pro-active a long time. That is the usefulness that I find in being able to appear and do a lecture at the Black History Month. It is my perspective about it and not some American person who has had a different perspective about it. We condemn too many things and that is what we have heard here today.

Madam Speaker?

The Speaker: Thank you, Honourable Minister. We have reached the hour of interruption. I call on the Leader of Government Business to move the adjournment.

ADJOURNMENT

Hon. W. McKeeva Bush: Thank you, Madam Speaker. I move the adjournment of this Honourable House until tomorrow at 10 am.

The Speaker: The question is that this House do now adjourn until 10 am Friday 22, February 2002.

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

Ayes.

The Speaker: The Ayes have it.

At 4.35 pm the House stood adjourned until Friday, 22 February 2002, at 10 am.

OFFICIAL HANSARD REPORT
FRIDAY
22 FEBRUARY 2002
10.24 AM
Fourth Sitting

The Speaker: Good morning. I shall invite the Honourable Member for the district of North Side to grace us with prayers.

PRAYERS

Mrs. Edna M. Moyle: Let us pray.

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

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

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

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

Proceedings resumed at 10.26 am

The Speaker: Please be seated. Proceedings are resumed.

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

Apologies

The Speaker: I have received apologies from the Honourable Minister responsible for Planning and the

Honourable Minister responsible for Education who are both off island on official business.

**QUESTIONS TO HONOURABLE
MINISTERS AND OFFICIAL MEMBERS**

The Speaker: The Second Elected Member for George Town.

Question No. 10
(deferred)

No. 10: Mr. Alden M. McLaughlin asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce, What is the current employment status of the Director of the Port Authority.

The Speaker: Honourable Leader.

Hon. W. McKeever Bush: Madam Speaker, question No. 10 has to be deferred until Monday. The staff is not yet ready with the answer. I should say they were ready and there arose a legal question and they did not get the advice until this morning. Under Standing Order 23(5) I move that this question be deferred until Monday morning. Further, Madam Speaker, I ask that questions 11 and 12 also be deferred as the Minister is off the Island.

Question No. 11
(deferred)

No. 11: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture –a) What is the current number of students at the George Hicks High School; b) What is the average number of students per class at the George Hicks High School; c) How many students are expected to enter Year 7 of the George Hicks High School in September 2002; and d) Is there sufficient space and staff at the George Hicks High School to accommodate the student intake in September 2002 and, if not, what plans are there to cater to the increase in student numbers.

Question No. 12
(deferred)

No. 12: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture –

a.If Government still intends to restructure the John Gray High School and the George Hicks High School as parallel high schools both catering to years 7 to 12 as previously announced by the Honourable Minister of Education in July 2001; and

If the answer to (a) above is yes, when will this transition begin and what plans are there to cope with the additional staff and accommodation requirements.

The Speaker: The question is that Questions 10, 11 and 12 be deferred and set down for a later date with Question 10 being set down for Monday.

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

The Speaker: The Ayes have it.

Agreed: Question No. 10 deferred until Monday 25 February, and Questions Nos. 11 and 12 deferred.

The Speaker: The Honourable Member for the district of East End.

Question No. 13

No. 13: Mr. V. Arden McLean asked the First Official Member responsible for the Portfolio of Internal and External Affairs, If there are any plans to replace Mrs. Jennifer Dilbert as Head of the London Office and, if not, would the Honourable Member give a specific date of her anticipated return.

The Speaker: The Honourable First Official Member responsible for Internal and External Affairs.

Hon. James M. Ryan: Madam Speaker, there are no plans to replace Mrs. Jennifer Dilbert as Head of the London Office. However, Mrs. Mary Chandler-Allen has been appointed to act in Mrs. Dilbert's position for the duration of Mrs. Dilbert's absence.

Mrs. Dilbert has been seconded to the Monetary Authority until 30 June 2002, after which she will be taking a short vacation before returning to the London Office. The anticipated date of her return is 8 July 2002.

The Speaker: Are there any supplementaries? If there are no supplementaries, we will move on to the next item.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received no notice for statements by any Member.

GOVERNMENT BUSINESS

Debate on the Throne Speech Delivered by His Excellency, Mr. Peter J. Smith, CBE, Governor of the Cayman Islands, on Friday 15 February 2002

(Continuation of debate thereon)

The Speaker: The Honourable Minister responsible for Community Services. Continuation of the debate on the Throne Speech.

Dr. the Hon. Frank S. McField: Madam Speaker, I believe that I have some twenty or twenty two minutes left.

The Speaker: Twenty two, that is correct.

Dr. the Hon. Frank S. McField: Twenty-two minutes left to conclude my contribution to the Throne Speech. Since I have made most of the remarks that I felt I needed to make at this particular time, I would like to say again that two hours is a short time for a lot of us who have a lot of wind but I can live within the new restraints. I am sure that the Opposition agrees that it was a meaningful change because at least during the period of two hours we will perhaps listen a little bit more to each other and we will not become overburdened by speaking for the full four hours that we had before. Madam Speaker, changes like that to be made, can create such an issue.

It is interesting that the press also finds the opportunity to make the United Democratic Party look bad: they sit there judging us and seem to lack the understanding of parliamentary procedures and precedents. It would be good if they would take a look at Erskine May's and then make some of the editorials that they do like to make about the United Democratic Party Government.

I do not have too much faith in those people anyway and they know that. As a result of that I have been doing my Public Eye programme to give myself the opportunity to explain to people my positions and my understanding of issues. For if those 'good' people are to interpret for our people, then we will always be immature and we will always have a limited Colonial mentality when it comes to our understanding of our own will for self-determination and our own ability to be fair to each other.

Madam Speaker, that particular point I feel is necessary for me to make because there comes a time when we realise that change is not good (abstractly). Change affects different groups of people differently. Some are hurt by it; some are displeased; some benefit from it and some are pleased. However, change to me is one of the things I have always been dedicated to.

I really do find that the papers in this country are biased. The persons who are writing are not objective, they are not above the same petty politics that

everyone else seems to be condemned to, according to them. And they are not in a position to sit and judge because they have to first of all prove that they are objective and to me they have not been able to do that.

I considered issues that have to do with the need of the country to mend its social fabric and to be able to reintegrate many of its citizens that have been alienated, separated from being able to benefit from development and to participate in living a standard of life that is an improvement on that which they were living many years ago.

Many of us have had economic rewards as a result of development but the social consequences have had traumatic effects on many of our citizens and their young people and as a result of that, may Portfolio (Community Services) have begun to put programmes in place that are focused on those persons who have been most adversely affected by development.

Madam Speaker, I like to use the remaining of my talk to again deal with the Second Elected Member for George Town, feeling that somehow the country is upset, the country is angry. I said that because during Christmas I received a Christmas greeting card from someone in the community. It was obscene, obnoxious, and pornographic. It suggested insulting things about my family and it made me feel vile and sick seeing that there are people in this society who would be succumbing to that way of reacting to things that they were upset with, if that is what they are.

Some ten Members of this Parliament (Members of the United Democratic Party) received those letters. I do not believe anyone else did. They talk about rumours—and we have my good friend from George Town who is a lawyer and we always say that hearsay should not go to Court but he talked about ‘rumours have it, rumours have this and rumours have that’. What I am talking about is not rumours at this moment. Those cards were disgusting!

Not only that: I have also received two additional letters that attempt to degrade my wife and me. Two additional letters that have been circulated. I have had people go to the extent to try to convince people and to prove that I do not deserve to be in this position that I am in.

So, I understand that there are some persons out there who are angry about the situation, but I do not believe this is the way that people should be able to voice their anger. We have been democratically elected. We are the persons occupying the high offices in this country at the moment, regardless of who likes it and there should be some respect shown to our families and us. Whether or not they had to send these letters to Radio Cayman—because they do send these letters to *Radio Cayman Talk Today* trying to scandalise people and make insinuations about people.

Today is exactly ten years since I met my wife Christiané in Germany. In contradiction to what some

of those scandalous letters say, those scandalous letters, Madam Speaker, that try to pull me down into the mud that these people have tried to keep me in all these years in this country. Regardless of what those scandalous letters say, I met my good wife ten years ago at a restaurant where she was introduced to me by a practising Attorney and notary public who studied with me at the University of Bremen in the city of Bremen, Germany.

So, I do not understand why this campaign is going to this extent to discredit Members of the United Democratic Party. Why is it not happening to the other Members? It is well orchestrated, but I know that God has blessed me. I know that my mother has prayed for me and many other people have prayed for me. I am happy that I am beginning to experience the fruits of those prayers. And the fact that my wife is at this moment pregnant is something that I am very, very happy about. So, the fact that there are people in this place that continue to try to envy me and try to destroy my good feelings about my accomplishments, I think it is disgraceful.

It was so in the beginning when I came back here in 1977 with a PhD and they said, ‘*No, no, no you do not have a PhD, you do not have no sense, you are a fool, you are from the bush of George Town*’. And we still seem to have that attitude. People do not understand and will not understand, certain types of things, so I think that it is important that when people are given accolades to others for their staunch stance and their correct posture, that they remember that there were persons like myself that have been fighting in this country for many years for what I consider to be important. I know that I heard on the other side; when I was in Opposition with the other side, there for the four years, people emphasising the fact that we needed to do things in this country in order to prevent divisions between people.

Those things are still necessary today at least they are more necessary today. They were even a year ago, or a year-and-a-half ago when we were in Opposition preaching the need to get these things going. This is exactly what I believe I have been saying, that I am involved and getting things going.

I met again this morning with the Director of Prisons and it is absolutely essential that we spend time gaining support to be able to do the necessary reforms within the Prison system. But again, we are talking about how this Government is not fair. How this Government is not democratic, how this Government tries to prevent the Opposition from being able to make their speeches, to object to having a dissenting view or paper presented.

If the position of the Opposition will continue to be that of trying to prove that the individuals on this side are not fair then the debate will always be from this side to prove that we are fair and their side to prove that we are not fair. Therefore, the particular nature of the debate will be what it was.

However, if the position of the Opposition becomes that of showing us the faultiness of our strategies and our policies, then the nature of the debates will be different and so it is necessary for the Opposition when it starts the debate, to start the debate on a level that will have to do with policy issues, rather than to have to do with the so-called conduct of individuals and groups.

I believe that it is important to give the Opposition a chance to express their opinions. And I am one who will not attempt to stymie the Opposition's attempt to express their opinions because I have been in Opposition. However, I also remember that for one year before the change on the 8 November 2001, I was considered to be the Member to be the Opposition over there. I remember the decorum of this House at the particular time and there might be those who say that it was more improved than it is now, but the Honourable Minister for Health was also a part of that Opposition and we were not the same kind of Opposition. There were lots of attempts to at least co-operate and collaborate with the Government Bench. The Minister for Education, who was a Member of the Government at that time and the Minister for Health, who was on the Back Bench at that time, the fact that they ran together on the same political platform, made it difficult for the Opposition to remove itself completely from the Government.

The fact that I have spent four years on the Back Bench as an Opposition Member with many Members, at least four Members of the Government, made it difficult for me to disassociate myself with the policies that they were representing. So, is there really from a policy perspective that much of a difference between the Members of this House? No, Madam Speaker.

It was difficult for us to have the kind of Opposition with the same kind of intensity and conflict. It was impossible for the Second Elected Member for George Town to be an Opposition because his friend was the Leader of Government Business. Although he might have wanted to be a Member of the Opposition he would never oppose, because opposing the Government would be opposing his friend. However, now there is nothing restraining that good gentleman (the Second Elected Member for George Town) from opposing, from opposing, from opposing and so he opposes, he opposes, he opposes.

Madam Speaker, Opposition has to make sense and it has to have a constructive role. It is not so that the Opposition as he said in the words of one Jamaican politician, "is removed from power." The Opposition is a very essential part, a complementary part of the power configuration in a country.

The Opposition prepares itself to scrutinise the policies of Government and eventually to become Government. We have seen that happen. When that happens, they will begin to act the same way that at least two Members on Opposition acted when they were Government between November of 2000 and

November 2001—which meant that they stopped opposing and they started trying to get the then Opposition, which included me, to co-operate with them in as many ways as possible to see what they were doing as being positive.

I must say that the demeanour of the Leader of Government Business at that time, assisted in the reconciliation between the two sides and helped to keep it from going to the point where we were opposing and opposing and opposing. So, we must make sure that opposition is not because of personalities, but opposition is because we are critical of the policies of the Government. Not because we might not like somebody in the Government or not because somebody in the Government might have done something to our friend or us that we did not like. Let us be sure that this is the point.

In my few remaining minutes, I would just like to come back to the idea of the dock in East End since I am sure that the Member for East End will begin his debate as I finish mine. It will give him at least the possibility to be a little bit more feisty when he starts (not that he needs help) but I would like to give him some assistance to let him think perhaps that he is only paying me back.

The survey that was done in East End with regards to unemployment is a serious issue. The fact that so many people are unemployed in that district is a serious issue. Social Services, housing projects and all of those that we have will be more taxed if people are not able to get jobs. I want the Member, when he stands to speak to give us an indication of what the Government can do specifically, to help to improve development in East End in a way that is acceptable to him and his constituency because development, regardless of what form it takes, will be a necessary condition for solving the problem of unemployment.

I am also interested in the fact that the Member for East End believes that docks can exist in George Town and not make the environment look or become worse. If a dock were to be in East End, however, some people are of the opinion that it would destroy some of the natural beauty. A dock has to be some place. Development has to occur someplace. Work has to exist some place whether or not it exists here in George Town, for them to come here, or whether or not it exists in Frank Sound for them to go there, or whether or not it exists in East End for them to be able to go there.

I do believe that a dock is a very important commercial entity within that whole framework of trade, which has to do with transportation. And when a dock is some place other institutions will grow up around it. So it will not necessarily be that you have a dock. You will have storage facilities, warehousing, secretarial services, booking agents or Customs Brokers, and a whole heap of industries that will spring up around it creating jobs. Perhaps a surplus of jobs for the people.

Obviously, not everyone wants to work within the Tourism Industry. Looking at the percentage of people working in the Tourism Industry who are Caymanians, not just in East End but in other districts, we cannot say that continue to develop Tourism in those particular areas is going to solve the unemployment problem in those districts.

So, the Member cannot get up and tell me that he is what he is going to be suggesting that to me solely. There must be other types of development that Member is speaking of as well.

Let us not condemn an idea simply because the Government has brought it. Let the Opposition not find fault with it simply because the Government has brought it. Let the Opposition do their research too. Let them not just depend upon likes and dislikes of people but also take into consideration seriously what the people can benefit from. Let them come with scientific reasons why something should not happen. Let them come and say the economic disadvantages of these things happening. Let them come with solutions.

I was on the Opposition; I had solutions a lot of the issues that I spoke about. Those solutions I am implementing now when I am dealing with youth facilities, housing issues, elderly issues, seamen's ex-gratia payments, prison issues, substance abuse issues, and this is how the Opposition will spend its three years in a useful manner if they become competent in showing us exactly, as a Government, how we can improve on our policies.

The working of the democratic system in this Parliament is an important issue, I realise that. But I believe that those who criticise it, those who write editorials about it should gain a better position on exactly what the procedures are here.

I heard for instance, on the radio yesterday the kinds of criticisms about the Speaker as the person who is like the Judge in this Court. We could not go and talk about the Chief Justice and we could not go and talk about the other Judges in this country to this extent, they would not write editorials about Judges in this country the way they write it about Government people in this country. They know that they would have to pay certain kinds of respect.

There is freedom of speech, there is freedom of the press but the press must be respectable and responsible. The press cannot (because it sees itself as a colonial institution) talk down to the Heads of Government of this country. And if other persons have been occupying this position maybe they should be a little more careful. Maybe they do not find the need to be careful because of some of us. And I will tell you, Madam Speaker, I do not feel the need to be careful in terms of how I rebuke. Because I will go on my TV show and continue over a period of time to be able to get a message across as to why it is the way it is. As to why the position is the way it is. Not simply because we have breached any democratic principle, not simply because we are against the functioning of democracy.

I feel that I have said enough and I thank you and this Honourable House for listening to me.

The Speaker: Thank you, Honourable Minister. Does any other Member wish to speak? Does any other Member wish to speak? The Honourable Third Elected Member for the district of Bodden Town.

Mr. Anthony S. Eden: I thank you for this opportunity that I can rise to speak on the Throne Speech which was delivered last Friday by His Excellency. I will go through and make comments on the different sections and departments within the delivery and I will leave the introduction until the end.

The Judiciary

I am pleased to see the introduction of the drug courts. This is something that I know that the Honourable Chief Justice has been working on for sometime. It has been tried in other jurisdictions and it has been proven quite successful. As a matter of fact when I was in Florida over the weekend the *Miami Herald* indicated that the daughter of the Governor of that state would be going through one of these drug courts and if successful in her efforts for rehabilitation when everything is finished there will be nothing against her in the records.

I have worked in the past very closely with the Honourable Chief Justice and as I said earlier, I salute his effort in this attempt. As we all know, this area of concern in Cayman is quite great and continues to grow. I will speak about this later when I come to the Prisons which my good friend, who just spoke, commented on.

Portfolio of Finance and Economics

In the area of the Portfolio of Finance and Economics, I look forward to the implementation of the debt-restructuring package for Central Government. For far too long these Islands have had to borrow money on short term and the interest rates have caused significant financial difficulties to the operation of these Islands as a Government. I am pleased to see the continuation of the collaboration with the private sector and I trust that this will be successful because without the private sector on board times can become very difficult.

The Customs Department

Recently in passing through the Customs Department I did not observe the presence of the drug dogs or the sniffer dogs, as they are called at times. On two different occasions within a month or so I did not see their presence. I do not know if this is because of the destination of the aircraft or whatever reason but I would certainly encourage the presence of these animals wherever.

The other observation I would like to make is in regards to Customs Department at the Airport where we go to pay duty on goods brought in. There is a line there when you have completed your tariff forms and then you leave that line and go and stand in another line to pay cash. I would encourage the Honourable Third Official Member to look at this and try and get this area streamlined. Everyone seems to be quite busy when you go there and I honestly feel this can be expedited.

Marketing and Promotions

I see that this unit will organise the Caribbean Development Banks 32nd Annual Meeting of the Board of Governors. I would ask a question on this in regards to obtaining funds from the Caribbean Development Bank. Will we be getting any new or preferential rates from this bank? As I recall, when I was in Government, it was indicated that it could be somewhat cheaper to go through the local banks to borrow. Has that philosophy changed?

Education

When the Honourable Minister responds to the Throne Speech I would enquire, what is the present status of the strategic plan for education?

I know in some of the schools it was still being developed I would like to know where it is at and what is going on if it is still being used? One of the areas that has been developed by this Honourable Minister is the Cadet Corps. I well understand the importance of this and what an asset this can be to our young people.

After spending three years in the United States Army I know without a doubt that at that formative stage it can be of great benefit to the children of these Islands. I also, continue to give my strong support to the Community College of the Cayman Islands and I am glad to see the attempts being made to make it into a four-year college. I would certainly encourage this where ever, as I honestly feel that if we can keep our children here to a certain age and at a stage of more maturity that it will be more beneficial to us. Not only that but the money that we give to the Community College would be staying and circulating in these Islands.

I note that three schools are scheduled for full inspection in the coming year and I would query, in regards to the post inspection report for the Savannah Primary School, what follow up has been carried out? There were several concerns by the schools inspectorate in a report in May, last year. I know a number of the parents in the PTA have shown that concern and I feel that eventually it will be addressed and I would just like to know what stage it is at

Ministry of Community Services, Women's Affairs, Youth and Sports

I am pleased to see that the Honourable Minister has given consideration to the closing of CIMI and has had the opportunity to see first hand some of the other services they use in their programmes. I had the opportunity back in 1993, with the present Minister of Tourism, who at that time was responsible for Social Services, to travel to Tampa, Florida. I was quite impressed by the alternative services that they used for rehabilitation and I always wondered why Cayman with its Maritime History and its background, did not utilise some of these services here. But I am very pleased to hear that the Honourable Minister will be travelling and looking at these in more detail and I can promise my support in these areas.

Substance Abuse

The area of substance abuse that is happening in Cayman is of grave concern to us. I noted in the paper the possibility of extending the hours for the sale of alcohol at night clubs. It is my humble opinion that most visitors would not be looking forward to staying out until 3 in the morning but whatever the majority say on this we have to abide by. One of oddities I noted was the noise going on around some of the premises that sold liquor. What do we expect when people are drunk or drinking? They are going to be noisy.

I look forward to the efforts that will be put in place to curbing this noise and I think we could have a good recipe for anyone in the world who can find a solution to this problem.

Yesterday, the Honourable Minister spoke about a new cellblock with an appropriate regime to deter those who import drugs in the Cayman Islands. This I welcome wholeheartedly. In the past it seems that we have been too soft on drugs, especially the pushers. I have no pity on them they should be given the maximum.

I wonder also about the murderers and other serious felons. It has always been my opinion in the past that there is not enough deterrent at Northward Prison and I welcome this new and bold move and I feel that this Legislative Assembly will support it. I know we will be hearing cries of human rights violations but it is time we take a stand in this area because there is not another area that can be more detrimental to the future of these Islands than the abuse of drugs including alcohol.

Once again I was pleased to see the servicemen and seamen's benefit clarification yesterday released by the Honourable Minister. A number of seamen have been asking about this and I think now that something definitive has been said and done, they will know where they stand. Have past recipients who are not entitled to it been notified that the benefit will be terminated? And how can others best receive this? I know, as has been indicated many of our Caymanians who went to sea and made significant contributions to

the development of these Islands have looked forward to that.

Ministry of Planning, Communications, Works and Information Technology

I am most pleased to see, after many years of requesting that we will be considered for a new cemetery in Bodden Town. We have been waiting for this for quite sometime the existing one at Pease Bay is just about full and I was becoming quite concerned about its relocation or find another one in its place.

Also in regards to Postal Services, I see that plans will be looked at for the Savannah Post Office as we all know in this Honourable House that this area of the Island is one of the fastest developing and there is a great need. I am pleased to say that when I was in Government back from 1992 on, we had the ability to purchase the land around the Savannah Primary School for which this and other community facilities can be developed.

Ministry of Health Services, District Administration and Agriculture

I must say with all honesty that the new Minister has made significant strides in his first 100 days. I am pleased to see that a number of laws which have been in the process of preparation for some time, will in due course be brought to this Honourable House.

In regards to the raising of the fees, earlier this year many people were concerned. But I know from the time I was there that Central Government was subsidising health fees, probably to a tune of over 60 percent. This could not continue.

I also note that the Health Services Authority Law will be coming to this House later on this year. I am pleased to say that this was part of our health strategic plan which was drawn up a few years back. Certain comments were made about the Health Services Authority and why it was stopped the last time. A number of us were part of the government that did that Madam Speaker. If you remember, along with the Health Services Authority at that time, one of the greatest demonstrations ever witnessed in this Island was Motion 3/90 and the Hospital in the swamp. We had a mandate from the people and records will show that the present operation of that Health Services Authority at that time and seven consultants that were utilised, five of them were practically useless. But I feel sure a Health Authority can only be as good as the leadership and management that runs it and I have every confidence that the new Minister will bring that leadership in the Health Services.

Cayman Airways

I move on now to Cayman Airways and I would just like to know what is happening there, what is the status? This comes in under the Ministry of

Tourism, on page 27. I have heard different talks and I know it was indicated that a study is being done, but we need to be updated as was the policy in the past. But sometimes we as the Back Benchers on this side need to be informed.

As I wind down my brief contribution to this debate on the Throne Speech I will now comment on Party Politics. Madam Speaker, what I have seen transpired in recent times in this House does not make me feel comfortable as was suggested in today's editorial of the *Caymanian Compass* which reads, **"In the confrontational atmosphere which currently prevails in the House"**, and in the final paragraph it says, **"It is of the essence of democracy that while decisions are made by the majority there should be ample opportunity for all opinions to be aired"**.

I encourage that this be looked at. It is inevitable for the development of these Islands as we go forward that party politics come on line. But I will say that it will not be the great solution to some of the problems that we go through. It is my humble opinion that the people of these Islands—and I will use the phrase from a former distinguished Member of this community, *'Some of them will be in for a shock of surprisiation when we go full party system.'*

My feeling is that some of the problems we share here can only be solved with us working amongst ourselves. All of us working and putting our heads together. And in my brief observation of what I have seen here of party politics and inevitably if I continue to consider being a Parliamentarian I will be caught up into this. That is part of change and I will deal with that as I see fit.

The bitterness and anger exhibited should not be a part of our Parliament. I remember hearing the Honourable Minister for Education say, *'This is a fraternity'* and we need to be able to live in a dignified manner amongst ourselves.

I still feel that Members of the public should have input as we go forward with changes as indicated by His Excellency in his Throne Speech. Looking back at the history of these Islands, we have come to be literally the envy of the world with the highest standard of living anywhere. Yes, we have had a number of people who had unique ways of getting the job done. Madam Speaker, I trust that this can be incorporated in the Party system and that the people will be able to make the contribution and the representation to their representatives and that they will be listened to above all else.

I am sad to say that not since 1992, when I became involved in politics, that I have had the significant representation from people throughout the Islands, especially when I go into the supermarkets and different places. The concerns that they are now expressing of their future, of their difficulty to make ends meet, I would encourage the UDP to listen to these people, I am sure they are also talking to them.

The concern is out there. Madam Speaker, the way forward—and this is not a scare tactic as you well know working with me in EXCO for a number of years and in this Legislative Assembly. I am only saying what has been expressed to me. We need to listen to what the people are saying.

Comments have been made in regards to the East End dock I am not putting it down. For these Islands to develop—and I have always said that Cayman is based on a construction economy and when that slows down everything slows down and our people hurt. But I do question the distance and I would suggest to the Honourable Minister for Community Development, in between 7 am and 8.30 am in the morning coming from North Side, East End, Bodden Town into George Town and then from 4.30 to 7.30 pm in the night, it is an absolute nightmare travelling on that road! I feel the people from East End and North Side will possibly now have to get up at 5 am to be on the road if when we see these big containers or whatever method of transportation, unless we might even get a train track. That is the only way that I see that we can keep sanity or as been advocated by myself for many years, moving some of the Government Services to the Eastern part of the island so that our workers do not have that long haul to make.

I remember on the West Bay road, how horrible that use to be but the thing is that is only one third of the distance as compared to coming from the Eastern districts. So I would ask that due consideration be given that the feeling of all the people be looked at in this. Yes, progress must come but at what price?

As I continue to wind down I, too, like the Minister of Tourism, am scared to death, but my scare is in regards to the financial industry slow down which could come. What if a number of these banks, when their financial year comes to an end next year decide to relocate?

This is not a rumour: I have had a number of people say this to me. What are our contingent plans to deal with this? It may have been easy in the past to get these institutions to come here but it will not be that easy to get them back. Cayman cannot live off of Tourism alone.

I would say again, make haste, slowly. We are at a crucial time in the development of these Islands and we must have as wide an input into its development of these Islands for the good of all of us.

I now go back to the introduction of His Excellency's final Throne Speech, and he says in the third paragraph, "**We know that those who ignore history are condemned to repeat it**". I do not know if this is a prophecy of the part of Revelation but I would just say to all of our leaders and us as Legislators, to remember the Bahamas approximately thirty years ago when certain drastic action was taken and the Cayman Islands benefited to the stage where we are today, as the fifth largest financial centre in the world.

He goes on to say in the next paragraph, "**The governance of these Islands could have a**

different complexion by next year". Once again I say, make haste slowly.

Finally in my opinion, the monkey courts of history will try the leadership style of our present Governor and when the final chapter is written it will be found wanting and quite possibly the bananas will be finished. Thank you.

The Speaker: I propose to take the morning break for 15 minutes at this time.

Proceedings suspended at 11.30 am

Proceedings resumed at 11.53 am

The Speaker: Please be seated. Proceedings are resumed. Does any other Member wish to speak? Does any other Member wish to speak? Last call. Does any other Member wishes to speak? If no other Member wishes to speak, I shall call on the Leader of Government Business to wind up.

The Member for East End, is it your intention to speak?

Mr. V. Arden McLean: It is yes, Madam Speaker.

The Speaker: Please continue.

Mr. V. Arden McLean: Madam Speaker, thank you.

First of all I did not know there was a wind up period in the Throne Speech but I guess I am learning as we go along. I did not know that the Leader of Government Business would be representing the Governor in replying to the debate who made the speech on behalf of the country.

As I rise to debate the Throne speech of 2002, which was delivered by His Excellency The Governor on Friday, 15 February 2002, I am like the Third Elected Member from Bodden Town, a little amazed at some of the debate that has taken place and in particular that, that was done by the Minister responsible for Community Services and as I go on, I think there are a few areas that he addressed that I would like to reply to.

One of the things the Minister for Community Services spoke about was mine and his relationship as family and how I try to friend him up when I want something for East End. Well I have never once asked any Member of the Government in the—last year and some months, for anything for Arden McLean, I have always asked on behalf of the people of East End which is my responsibility.

When any Minister replies with whatever I ask of them, it is not for me and it is their responsibility to ensure that all peoples in this country are fairly dealt with.

I was taken aback to learn that the Minister has yet, it appears, to understand his responsibility of providing policies for this country. It is not for me. And when he talks about how I 'friend him up' I would re-

mind my cousin that in our family charity begins at home. That was the training ground for all of us. We were taught to respect each other and to treat each other with friendliness in order that when we go out into the world we could carry that respect for individuals with us. Maybe he has been out of the flock a little too long and he had a memory lapse but that is the reason why I treat him with that friendliness. But he remembered, yesterday evening upon the adjournment he was very friendly to me in the parking lot also. So he remembers, he knows, but when the microphones are on we say anything. And I will remind him that he and I came from the same family and he knows that family was not a privileged family. By the sweat of the brow that family succeeded and in so doing, he and I have had to do the same.

I am concerned about the scandalous letters that he has received because I think that is ridiculous. It appeared that by inference he might have been indicating that Members of the Opposition may have had something to do with it. Well, that is not what I was taught. I, too, have received scandalous letters in my life but I did not go out and try to find out who it was or point fingers at anyone. I do not think it is fair for the UDP or anyone else to cast aspersions on any one family, because I do not want it and I am sorry to hear that that is what is happening. Also, I would caution anyone who is doing it that it is a serious matter.

Now that, that is clear, let me now move on to the Throne Speech. This is my second Throne Speech debate and it has given me much to think about. First of all, it is the last one for our current Governor. Since I have been elected I cannot say that I have had any relationship with the Governor because I am still to be officially introduced. But be that as it may, I have had audience with him. I cannot say that I have agreed with some of the things that he has ruled, the way he has governed in this country, but we all have our opinions on governance.

I specifically talk about such areas as the signing of the agreement with the U.S. on the tax agreement. While the political arm was involved in that, it was the Governor himself who signed it and Members of the Opposition who were not informed of it. Personally, I had to take it down off the Internet.

I believe that not only should we ask for the respect from the political side of the Executive, it is required from the Governor's Office also. When I came in to this Honourable House the buzzwords were, *transparency* and *openness*. Personally, it is my opinion that we have not been seeing a lot of that recently and in particular with that agreement with America, there was none.

The Governor in his throne speech also spoke of the Civil Service Review by the Civil Service College. Again we are, (the Opposition that is), awaiting the Governor's request/invitation to meet with us as to the status thereon.

I know as a fact that the UDP Government and its Members has been apprised but the Opposi-

tion is yet to be apprised on the status and what recommendations are coming from that review. The Members of the Opposition also represent some of the Civil Servants. I know recently having -

Point of Order

Hon. W. McKeeva Bush: On a point of order Madam Speaker.

The Speaker: Please state your point of order.

Hon. W. McKeeva Bush: Madam Speaker, I think it is a matter of misinformation—misleading the House.

The Speaker: Would you care to say on what point please?

Hon. W. McKeeva Bush: Well, Madam Speaker, the Member speaking said that he knows that the UDP Members government have been informed. That information is not correct. What the situation is if the Member will allow, the Civil Service College Report, or the report being prepared by them, we have not yet seen, that I know about. It is being conducted and the status of any review we have not seen. Not that I know about.

The Speaker: The Honourable Member for East End would you just care, out of the abundance of caution, to repeat what you said please. Because at the time I was trying to get the attention of the Honourable Second Official Member and the Serjeant was not here to so do.

Mr. V. Arden McLean: Thank you, Madam Speaker. What I said, in essence, is that the Opposition has not been apprised of the status of the review of the Civil Service to date. But I am 100 per cent sure that the Government, the Members of the UDP have been.

Point of Order

Mr. Rolston M. Anglin: Madam Speaker, on a point of order.

The Speaker: One moment, Honourable Member, let me just revert to the Leader of Government Business. Is it your point of order, that what he has just said is misleading based on the fact that the Government has not been apprised?

Hon. W. McKeeva Bush: Madam Speaker, I have not been given any report. I do not think that report is completed. We know as much as they know that it is being conducted and that is public knowledge but we have not been given any report. Nothing can be apprised on it, there is no follow up to it that I recall; unless the Member knows something that I do not know.

The Speaker: Honourable Member for my own edification would you please expound as to what the Government has been apprised of.

Mr. V. Arden McLean: Thank you, Madam Speaker. Some two weeks ago, I believe it was the 23 January, I came to this Honourable House to sign my questions and I was informed by the staff that there was a meeting of all Members to be held in the Committee Room with Mr. Cooper from the Civil Service College. Upon calling my other colleagues I was told that they were unaware of it also. I decided to stay to go to that meeting.

The Governor arrived at 11.30 with Mr. Cooper. I was invited into that Committee Room by your good self. When the Governor started his introduction, he said he had taken the opportunity to apprise the Government on the status of the Review of the Civil Service but he was not going to take anything away from Mr. Cooper's presentation, therefore he was turning it over to him.

I respectfully interrupted the Governor and asked if the intent was for all Members to be in that meeting. The reply was that it was the Government to be apprised. I respectfully withdrew and apologised to the Governor and all Members of the UDP who were present, that is, the Government Members and the Back Bench Members of the UDP and I explained to the Governor that I was told by the staff, I think mistakenly, because they understood Members. That is the reason I was in that meeting.

Now if that does not tell me that the UDP have been apprised of the Civil Service Review, then I do not know what that is telling me, Madam Speaker.

Hon. W. McKeeva Bush: No, Madam Speaker.

The Speaker: Honourable Leader.

Hon. W. McKeeva Bush: I take objection to that. That is why I wanted to hear and if I do not have the space or the time to do it here, I will certainly do it by way of a formal statement or in my speech but I can tell you Madam Speaker . . .

The Speaker: Will you give way Honourable Member?

Mr. V. Arden McLean: Madam Speaker, I do not understand. Give way to what?

The Speaker: He is not now on a point of order; he is standing to explain the position. Will you give way on a point of elucidation?

Please proceed, Leader.

Point of Elucidation

Hon. W. McKeeva Bush: Madam Speaker, I do not know all about what the Member said, I know that a

meeting was here yes, with the man [Mr. Cooper] on the process that it had started, but there is no report and there was no information given to us. It was to tell us the procedure on the way forward. But certainly there was no report, no information that could be given and that is basically what I need to say. That is the fact. The man [Mr. Cooper] came to tell us the process and earlier I must admit that the Member said that we were given some information on the Report that is what I take objection to.

The Speaker: I think the matter has been cleared as far as I am concerned in that the process was shared with the Members of the Government and Back Bench Members and I was also invited in as the Speaker. I can certainly clarify and confirm that during the time that I was there, there was not any conveyance of information as to what might have been in the Report but that a Report would be forthcoming. So, as far as the Chair is concerned the Members that were present at that particular meeting have no information as to the outcome or the possible contents of the Report.

Mr. V. Arden McLean: Thank you Madam Speaker, for that clarification and I respect the Leader of Government Business saying that he takes offence if I had said a report. I really did not say a report, I said whether they were apprised on the Review and that tells me that there has been.

My question is, why were we not (the Opposition) afforded the same privilege as the UDP? We represent this country. We represent our constituents and that is the very least that the Governor could have afforded Members of this Honourable House and in particular the Opposition. Madam Speaker, governance must be transparent.

Point of Order

Hon. David F. Ballantyne: Madam Speaker, I apologise for intervening on a point of order.

The Speaker: Please state your point of order Honourable Second Official Member.

Hon. David F. Ballantyne: May I refer to Standing Order 35(7) Madam Speaker, in relation to the conduct of the Governor. Where Standing Order 35(7) in my opinion indicated that, "**The conduct of the... Governor.... may not be raised or impugned, except upon a substantive motion; and in any amendment, question to a Member of the Government or debate on a motion dealing with any other subject any reference to the conduct of any such person is out of order**". I apologise to the Honourable Member for the intervention but the matter was drawn to my attention. Thank you.

The Speaker: Thank you Honourable Second Official Member.

Honourable Elected Member from the district of East End, I take the very valid and timely point by the Honourable Second Official Member and would ask you to take full cognisance that **“The conduct of the Governor, the Royal Family, Her Majesty the presiding Officer, Members, Judges and other Persons engaged in the administration of Justice or Offices of the Crown may not be raised or impugned, except upon a substantive motion; and in any amendment, question to a Member of the Government or debate on a motion dealing with any other subject any reference to the conduct of any such person is out of order.** And I so rule. Please continue.

Mr. V. Arden McLean: Thank you, Madam Speaker. I am very aware and I have tried to avoid that but as we move on, I think I can at least ask and find out when the Opposition will be apprised?

Whatever can be said about the former Leader of Government Business one thing will not be said and that is that he did not try to ensure that all Members of this House were properly apprised on all National Issues. *[inaudible talking in background]*

There were many meetings held between November 2000 and November 2001. I recall Cayman Airways, I recall OECD and FATF, and at that time I did not hear of any question of confidentiality. I believe it is given that all Honourable Members in this Chamber respect and understand the responsibility that has been laid on their shoulders by the people of this country.

As I move on I welcome the new Governor, Mr. Dinwiddy who is expected to take up office later on this year. I hasten to say to him that the people of this country, including myself, respect the position of Governor and regardless of what he has heard or will hear, he must form his own opinions of us after arriving here and living amongst us. That is, as a result of whatever he hears, try not to reach us with a preconceived opinion. We know, not only with Governors but also with anyone else coming to our shores, that is one of the possibilities when they are coached. I just say to the new Governor that we are good people who respect the Throne.

The Governor spoke on constitutional review. I would like, publicly, to congratulate the Commissioners. I look forward to their Report. I think most of the country is looking forward to a modernised Constitution.

The Governor said that the governance of these Islands could have a different complexion by next year and what a year for change 2003 will be. I agree with him, I support modernisation of the Constitution and it appears like there will be much. There has been much said about modernisation of the Constitution, in the sense of removing the Official Members, thereby allowing the House to be made up of all Elected Members that is a suggestion and a position that I support. I believe it is needed; therefore the

country will not have a problem with me supporting that.

That is not to take anything away from the Official Members that are currently sitting in this Honourable House. But I believe that any Member who sits in here should be accountable at the polls and they should be removable. I do not wish to take anything away from those Official Members, I have the utmost respect for them, but certainly they are not accountable to the people of this country and that is the system as it is.

Now if we are talking about modernisation, we need to change it. We need to start moving forward. I know when I discussed this issue with the head of the Foreign and Commonwealth Office I could see him renegeing when we talked about the Attorney General our Second Official Member as it is, being removed from the Chambers . . .

The Speaker: Honourable Member could you please clarify that to say by virtue of the Constitution, because I would not want the impression to be given that we are seeking to remove the Attorney General from the Chambers.

Mr. V. Arden McLean: Thank you, Madam Speaker. That is exactly what I meant — that through the Constitutional Review the introduction of removing all Official Members, which I said earlier. I do not believe that Her Majesty's Government will be too receptive to that, but certainly Her Majesty's Government will want to ensure that there is some representative of hers in the Chambers. I guess we will cross that bridge when we reach it.

I know the Second Elected Member for George Town spoke on the rumours concerning the extension tenure by one year.

I would like to go on record as stating that I support five-year terms. I support five-year terms but, Madam Speaker, certainly not in the middle of a term we extend that term. It should be clearly known to the populous exactly how much time they are electing their representatives for at the polls. Yes, I am aware of it having been done one time. I know that will be the primary reason put forward if it is proposed. I will go on record also to let everyone know that I will oppose that. I am but one person in here and but one vote, but I will oppose that. I do not believe it is fair to the people of East End or this country *[inaudible talking in background]* for us to tell them that . . . Madam Speaker, I sat here and I listened to other debates and I did not interrupt anyone, but it appears that the Leader of Government Business is making sure that I am distracted.

The Speaker: Do you wish to call a point of order under 39?

Mr. V. Arden McLean: Yes, Madam Speaker.

Point of Order

The Speaker: I would ask that all Members remain silent while Members are speaking and not interrupt unless they interrupt in the accordance with Standing Orders.

Hon. W. McKeeva Bush: Madam Speaker –

The Speaker: Yes Honourable Leader.

Hon. W. McKeeva Bush: I was only informing the Member for East End, my good friend, that he will not have to worry about any five-year term, because we certainly will look into getting rid of him before 2004.

The Speaker: Members let us keep the debate to a high standard. Elected Member for East End please continue in your debate.

Mr. V. Arden McLean: Madam Speaker, you know I think it is somewhat unfortunate that here we have the “Majority might” again: getting up without the authority—or permission to get up and talk about getting rid of me. It is the people of East End who will get rid of me and that is their choice; it is not the Leader of Government Business.

[Inaudible cross talk and comments]

The Speaker: Order Members!

Mr. V. Arden McLean: Madam Speaker, it is not Members. It is the Leader of Government Business who needs to be placed in order.

The Speaker: Honourable Member for East End, please take your seat. I have asked all Members for order. Order is not only asked for the physical expressions, but I sat here this morning and saw various Members entering and leaving this Chamber without the decorum as is asked for in Standing Orders 39. I sat here and I saw Members having discussions in the quorum as nothing. I sat here and saw Members not acknowledging the chairs with the manner in which they sit in this Chamber. I sat here this morning and saw Members talking to each other, rising up without acknowledging the Chair, sitting on the Backbench and I have tolerated that in the interest of expedite of times. I have ruled and asked all Members and I have asked it against that background. I will once again say all Members exclusive of none. Please proceed.

Mr. V. Arden McLean: Madam Speaker, one day, one day.

The Speaker: Is that a threat Honourable Member?

Mr. V. Arden McLean: No, Madam Speaker, I am going into my debate.

The Speaker: Please continue.

Mr. V. Arden McLean: Madam Speaker, one day we will all go to the polls and the choice will be up to the people of this country. It is not up to me.

I would like to touch on a few things in the Throne Speech. First of all under the Portfolio of *Finance and Economics* it is interesting to see that this year we will see the full independence of the Shipping Registry and the Monetary Authority. I think the independence of the Monetary Authority was a condition of the agreements we made with the OECD and the FATF and I think we have all been looking forward to it. One of the things I would like to address under that Portfolio is that of insurance.

I know the increase in insurance recently and the 9/11 disaster (or so it is claimed) is causing insurance premiums to increase drastically. For instance, it is my understanding that the basic insurance now available is somewhere in the region of \$81.70 and there is the intent to increase it to \$155.24 by March, that is for one person, that is single. For two people it is currently \$155.22 and it is going to be increased to \$294 or thereabout. Then for a family it is \$205 to be increased up to some \$390. We know who and the areas in this country where the basic insurance coverage is bought for, or is more utilised, and that is in the lower paying jobs of the country and in particular the tourism industry.

We all know that those wages in the tourism industry are somewhat low. It is going to be extremely difficult for these people to survive. Now I just wonder what the Government is doing to try to discuss with the insurance companies what can be done to avoid such premium increase on the basic insurance coverage. It is going to be difficult for a lot of these people who make \$4 to \$5 an hour. Madam Speaker, the insurance companies are complaining of the increases in taxes and licensing, work permits, but for the basic to jump some 95 per cent is really ridiculous.

While I do not profess to be any insurance expert, certainly Government has to look into this and maybe they are looking into it but something needs to be done to ensure that our people do not suffer from this increase in premium. This also hurts the employers and if it is hurting the employers then the whole country hurts. I challenge the Government to start looking into it.

The Minister for Community Services said that we should talk and give Government alternatives on how to raise revenue. I suggested during the Budget debate on some of the areas that the country could raise revenue. One of the suggestions that Government made was that they are stopping the charitable organisations from getting exemptions on duties. Well I wonder what has happened with my suggestion on those concessions that were given under the Pioneer laws many years ago? Has Government looked into those to see which one can now be rescinded? These are ways that revenue can be derived and un-

der the Portfolio of Finance and Economics I once again throw that out for the Government to seriously look into.

Ministry of Education, Human Resource and Culture

On the Ministry of Education, Human Resource and Culture, I hear the Minister again, of Community Services talk about how the employment services had done a survey in East End recently and there were some 31 people unemployed. I know that there is a lot of unemployment not only in East End but in this country. The Minister challenged me to come up with ways and means of getting the people of East End employed. I would like to say to that Minister and this Honourable House that those people were employed. Because of the recession the majority of them were put out of a job. I have done my part; I have tried to get these people placed in jobs but the Government's responsibility is to also make provisions for jobs in this country for the Caymanian people.

With no disrespect to any person living or working in this country, I would like to know what Government is doing. I am not talking about the dock in East End either because we are going to deal with that a little later.

We saw in the Budget Address and the Budget for this year (2002) that the Government has proposed increase in work permit fees again. The reason for increase in work permit fees is for revenue of course. We continue to issue work permits while our people are out of jobs so the Minister for Community Services cannot get up here and say that I must try and find ways of development to get these people in jobs when the same Government is getting revenue from issuing work permits which may very well be keeping our people out of work.

Point of Order

Dr. the Hon. Frank S. McField: Madam Speaker, on a point of order.

The Speaker: Honourable Minister, what is your point of order?

Dr. the Hon. Frank S. McField: Madam Speaker, the Member is misleading the House. The Minister for Community Services did not say that that Member should find ways to get these people work; the Member said Madam Speaker (and we can refer to the Hansard) that that Member should, when he gets up, suggest ways that the Government may use as an alternative to the proposed port facilities in order to create employment for the people. The Community Services Minister was asking that the Member assist us with some alternative—not that he should create the alternative employment for these people.

The Speaker: Madam Clerk, may I request the unedited version of the *Hansard*? And at this time the luncheon break will be taken until 2.30 pm.

Proceedings suspended at 12.50 pm

Proceedings resumed at 3.00 pm

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

Apologies/Condolences

The Speaker: Please be seated.

I would wish to record apologies from the Honourable Leader of Government Business as well as the Honourable Third Official Member who are both attending funerals and to record the condolences of this House to the Honourable Third Official Member who has lost his step-mother.

The Honourable Elected Member from the district of East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. When we took the luncheon break, we were on a point of order brought by the Minister for Community Services on whether or not I had misquoted him. Having discussed this issue with yourself and the Minister we have agreed that I did not, but in the interest of harmony, I understand that I did not say that he was telling me to go out and get jobs for people, that was not my understanding of it; my understanding is that he wants to know (as a representative) what am I going to propose as development and the likes for people to get jobs in the country—and that I should propose alternatives.

Now, my alternative was the work permit issue. I am saying, why are we continuously issuing more and more work permits and more and more of our people are disenfranchised by not having a job? The Government needs to seriously look at stopping or reducing the amounts of work permits that are issued in the particular areas that we have sufficient work force in our country, in those areas where Caymanians can have jobs. Yes, Madam Speaker, the Department of Employment Services went to East End last Tuesday and registered some 31 people who were looking for jobs. That is a high percentage of the work force in East End, it really is.

While I applaud the Minister for such an initiative, one of the things that I took exception to was the fact that as a representative I was not informed. Having been off the Island from the previous Friday for medical reasons, I did not hear the announcements on the radio or through the media for that matter. I arrived here late Monday evening and then to hear that there was going to be a meeting on Tuesday evening, I was unable to make it there. I understand

that the Minister was there and I applaud him for such an initiative as I said, but I would say that in the future maybe the Members of the Legislative Assembly for the respective districts could be informed in order that they may assist in the initiative and get it going a little smoother.

I think in the interest of getting on track and ensuring that we get the best possible timing and the maximum amount of people out—I know I could assist in the district of East End. Therefore, I am asking the Minister if it is a possibility for me to be involved.

I notice that we are looking at the viability of maintaining three primary schools on Cayman Brac and I trust that it will not put any student at a disadvantage if we reduce the number of schools. In the interest of efficiency, if it can work, certainly it will reduce some of the recurrent expenditure of the country.

On the issue of the school in East End, I am pleased to publicly thank the teachers of the school in East End. They are very dedicated teachers. I have seen (and also the people of East End) a tremendous improvement in that school particularly over the last year and a half. Not to take anything away from the teachers that were there before, but we have one of your own in our district who has now sort of become the 'pied piper' in East End and I applaud Mr. Tibbetts and the other members of staff also.

There is much to be done at the school. The Minister is very aware of it such as the canteen, more suitable staff quarters, there is a need for a playing field for the school. I have done as much as I can from a personal level and from donations from the general public, but there is need for more comfortable surrounding which will certainly be of benefit to the young children in East End. So much so that the East End school now has a computer lab with donations from Ernst and Young and I would like to publicly thank them on behalf of the people of East End.

Another partner in Ernst and Young who is an East Ender; Mr. Carlisle McLaughlin, has recently agreed to donate the remainder of the computers to make it a full Lab where all students in the classes will have access to a computer during the day. I would like to publicly thank these gentlemen and I must add that two of those gentlemen are also from your district: they are the two Scotts from Ernst and Young who are very good friends of mine.

I think they also donated to one of the Cayman Brac schools recently. This kind of partnership is needed between Government and the private sector and these young men (because they are all much younger than I am) should be applauded. They should be held high for making such contributions to their country. These are the Caymanians that I see out there deserving honours that are given once a year. Caymanians should not have to be in their old age to receive these honours. When these young successful Caymanians recognise the needs within the communities and step forward, we must give them every recognition possible.

I understand that the school in East End is quite some distance away. Certainly that does not take anything away from it but there are other areas needing to be addressed. Through the donation from other members of the private sector, recently I completed a long jump pit for the school. These are ways that I have tried to alleviate some of the recurrent expenditure that Government must face—capital expenditure.

So, when I get up here and ask the Minister for Community Services for something in East End, I have already done my part and continue to do. I do not believe we should hold our hands out to Government all the time. I believe that Legislators have a responsibility to go out there and look for alternative methods of getting these things for our districts and there are many companies in the private sector who will gladly give and I am tapping into every one.

Madam Speaker, when the Minister for Community Services talks about the park in East End, that the Dart Foundation is going to build, in my campaign I proposed a park in that same location. I did not know that the Dart Foundation was going to offer to build parks in the districts at that time, but I tell you, I am not going to turn them down because I believe that is what corporations in this country should do. They must contribute back to society. They live here, they conduct business here and the more they contribute to the society the better the society will be to live in and to conduct business in and I am not prepared to turn it down.

Now, many people within the district will contribute to that park. We have met many times, even met on the site. The same way the members of Scholars co-ordinated the one in West Bay, I am with the Dart Foundation trying to co-ordinate the one in East End. And there are certain things that if the people in the district contribute the better the park will be because we can spend money on something else to make it a better park. And we are going to do that: for instance, I have already gotten the rocks to build the landscaping beds. The money that would be used to buy those can be spent on something else.

So, I am doing work to try to prevent Government from having to be burdened with all of the expenditure. And the school will also be involved in it like it was done in West Bay (Scholars Park). As a matter of fact, Mr. Tibbetts and the whole school are excited about getting there to do work on weekends and the Community Development Action Committee (CO-DAC).

In the Throne Speech under the Community Services I noted that the Governor said that, "**Community Development continues to forge ahead promoting self-help and self-skills development and staff are focusing on a system with the establishment of a learning centre in East End within the first quarter of 2002**".

I understand the word 'assisting' to mean being a part of it. I do not know how that got in there I

know that the Community Development officer is part of CODAC but it is the Community Development Committee that is doing that learning centre. The Government leased them the old Post Office. I just want to set the record straight because the public may believe that Government is doing it.

The Acting Deputy Clerk of this Honourable House is one of the members; as a matter of fact I believe she is the Treasurer of that Committee. Those people are working diligently to do it on their own they are all volunteering. I am assisting them, they are going out doing fund raising, and they are begging. I am going out there doing the same—begging here, there and everywhere. That way they want to feel that they are the ones who did it. They do not want Government to be involved, they want to be able to feel independent of Government and they did it for themselves, for their own district and I applaud them. Yes, it will be finished in the first quarter of this year but it will be run by those members of that committee and it will be for the benefit of our own people in the district of East End.

Maybe more like that should happen in this country. These people are very dedicated, so when it is said in the Throne Speech that the staff is assisting with it. I just want to get it clear that Government is not putting any funds in it; the real heroes of this cause are the members of the district development committee.

So no one in Government should take any big time credit for it once it is completed. People of the district should be given the credit; my people in the district of East End; the same people who will decide whether or not I am doing a good job come 2004.

The Minister of Community Services— and I am not trying to go at him in anyway—he got up here and said that I would come after him and talk about housing and the likes, and that is true. I will not disappoint him, I refuse to disappoint him. We are not in the business of disappointing our own family.

Housing for people in this country has been an issue for very long as we all know. I have offered my assistance to the Minister of Community Services. Assistance that I believe is valuable and he could use. He has yet to indicate his acceptance of that assistance but I am sure that as soon as he gets going, or I am hopeful that as soon as he gets going that he will ask for my assistance.

The mere fact that this is politics does not mean that we cannot work together. It really should not mean that because we are working for one cause. Our ways of getting there may be different, but it is for one cause the people of this country. The same way the UDP feel for the members of their constituency, I feel too and all Members of the Opposition. *[Pause]*

Madam Speaker, we all have the same passions and we all address politics with the go-at-it, with the same passion because we want to contribute to our country. I do not live off politics I live for politics. When the Government requests my assistance—and I

believe that is so for any Member of the Opposition—it will be forth coming. Now I trust that it will work the other way also. If it is not a frivolous request then we expect that the Government will provide it. I know (and nobody needs to be reminding me) that I am not a part of the Majority, but we all represent individual districts and when a request is made of Government by the Minority (the Opposition) it must be at least reviewed and respected, and I am not saying it is not.

It is not about the individual. Every living being in these three Islands are entitled to the basic necessities that Government must provide. Now, yes, they may take other things from me or from any other Member of the Opposition. However, if they take the basic things from the Opposition, they are taking it from the same people that they represent. It is not me; it is not any other Member of the Opposition. It is the same people that we all represent. We represent the people of our country, so we have to stop this thing about what this one is going to get and what the other one is not going to get.

On the Ministry of Health Services, District Administration and Agriculture, I take note that the front page of the *Cayman Net News* during this week, was saying that there was going to be plans for an expansion of the Airport terminal facilities and in the Throne Speech His Excellency the Governor also mentioned the improvement of the infrastructure at the Owen Roberts International Airport. Contrary to belief that the Opposition will oppose just for opposition sake, that is not my intent. I think the country has long awaited a face lift of our terminal, I believe that we also need an extension to our Airport runway and I have always defended and believed that the Civil Aviation Authority should have spread its wings much wider a long time ago and reclaimed some of the swamp land that they have at the head of the Airport and build hangers that can be leased to private individuals for the aircraft. I have always defended that Madam Speaker.

I have also defended extending the runway out into the North Sound. If we are going to attract the tourists who we claim is one pillar of our financial success, then we have to provide the facilities for them as well as provide the facilities to keep our people safe at the Airport. I believe there are some 10 or 12 airlines currently operating in and out of Grand Cayman. It is impossible to accommodate them in the terminal that we currently have. We need to expand it and the Minister can rest assured that I will support the expansion of the terminal; the whole Aviation infrastructure if it comes to that. *[pause]*

Ministry of Tourism, Environment, Development and Commerce

I would like to now turn to the issue of the Ministry of Tourism, Environment, Development and Commerce and the big issue under there is the Port Authority.

And now we get into the famous or infamous dock proposal in East End. Much has been said about the construction of a full-fledged cargo dock in the district of East End in particular, the outskirts of the district at High Rock.

I know that anything can be done. I saw a documentary on the biggest oilrig ever built and it was built on land somewhere in Europe, I think it was Sweden and then floated it out into the North Sea. That was an undertaking of unbelievable magnitude but the cost is what they are talking about. I cannot say that the dock cannot be built where it is proposed to be built, but I can say it is going to cost this country a lot of money and as far as I understand the Government does not have any money to do it. There are a few little hiccups that need to be cleared up on how this dock is going to be built. There are a number of questions that need to be answered and the people of this country should not be fooled.

Firstly, the Government does not have any money to build it. If they did not have the money to build the proposed passenger liner dock in George Town I am sure, they do not have any to build a major dock in East End.

Secondly, who then is going to build it? There is a feasibility study underway financed by Mr. Ugland and I would like to publicly thank him for doing the feasibility study because the Government could not afford to do it. I just wonder why the feasibility study was not done elsewhere like the press release said.

Mr. Ugland then said he is not building it even though he has a tradition. His family tradition has been in the shipping industry, so he has a lot of expertise. Mr. Ugland says he is not building the dock, he is providing the feasibility study free of cost to Government which will encompass also looking for someone to finance it.

The question that is begged from that statement that Mr. Ugland is not building the dock, is who is buying up all the land in the immediate area? I do not know, but it has been sold. I think the people of this country need to know, is it Government? Someone needs to tell the country who has bought the land in the immediate vicinity of where the proposed dock is supposed to go.

If it is the "Majority might" to put the dock there then so let it be, but the people of this country, the people of East End in particular must be told; they must be respected—that is their home they have lived there all their lives. Did anyone consult with them? No, I understand that there is a petition against the dock going around in East End. I understand that the feasibility study should be completed first and one may say that the people have put 'the cart before the horse' but so did Government.

Government announced that the proposed dock was going in East End. The Minister for Tourism who is responsible for the Port Authority announced that in here recently—I believe it was in December, and he made a statement prior to that during 2001.

Now how can we say the dock is going to be built in East End when there has not been a feasibility study encompassing all the economic benefits, the disadvantages, the wishes of the people; all these things should be done.

Point of Order

Mr. Lyndon L. Martin: Point of order, Madam Speaker.

The Speaker: Please state your point of order.

Mr. Lyndon L. Martin: The Member is misleading the House. The Minister of Tourism stated that consideration will be given and the results of a feasibility study will be waited on to determine whether the port will be located in East End.

The Speaker: I would have to ask for a copy of the Hansard because I do not recollect. Member for East End is it your recollection that it was merely a consideration that it would go in East End?

Mr. V. Arden McLean: Madam Speaker, it really does not matter but my understanding was that the Government was looking at a site in East End to put the dock. Now, this was December in the statement—and prior to that, Madam Speaker, earlier on in 2000, the same Honourable Member made a statement also to that effect.

The Speaker: Honourable Member for East End can you recall the date the statement was made or general—whether it was the beginning of December so that we could ask the Hansard clerks to find it for us?

Mr. V. Arden McLean: No, Madam Speaker, I cannot remember the exact date or thereabout, but it was during the December Budget meeting that the statement was made.

The Speaker: Second Elected Member from Cayman Brac.

Mr. Lyndon L. Martin: Madam Speaker, if the Member would allow for a point of elucidation for me to simply set the record . . .

The Speaker: Will you give way, Honourable Member?

Mr. V. Arden McLean: Yes, go ahead, Madam Speaker.

The Speaker: Please proceed.

Mr. Lyndon L. Martin: . . . that it is Government's intention to await the results of the feasibility study currently underway by Burns Connolly and Associates

and make a final determination as to the feasibility and the viability of the port being located at the proposed site.

The Speaker: Members in the circumstances I would propose to take an afternoon break and ask the Hansard clerks to retrieve a copy of the statements so that I can make a ruling accordingly.

Proceedings suspended at 3.45 pm

Proceedings resumed at 4.14 pm

The Speaker: Please be seated. Proceedings are resumed.

Honourable Member for East End, I propose to take the following course— I should first ask if you have in your possession a copy of the document to substantiate the statement that you did not have. In the event that you do not have it . . .

Madam Clerk, how many minutes are remaining please? *[pause]*

[Addressing the Member] You have approximately 36 minutes remaining. The hour of interruption is at 4.30 so I will give you an opportunity to—I understand you may have it at your residence to bring it Monday morning at which time I will make a ruling. So I will thereby be deferring my ruling on that point of order to give you an opportunity to supply the documentation because we do not find a statement in that regard in Parliament at this time.

Please, if you would then proceed with the debate as you were before we took the interruption.

Mr. V. Arden McLean: Thank you, Madam Speaker, I appreciate you giving me that opportunity and yes I am sure I will be able to find it among my records just for the sake of clarity.

While continuing on the proposal to build a dock in East End, I can say that the *Caymanian Compass* of Friday, 8 February 2002 on the front page, '**Minister Defends New Dock Plan**'. In that article it says, and I quote, "**Mr. Bush reaffirmed Government's support for the dock proposal and said the country cannot stand still, we cannot be stagnant; we will die if we think that only diving will sustain our tourism industry**". That was in an address to the Cayman Islands Tourism Association.

The Speaker: Can you please supply the Clerk with a copy at the appropriate time?

Mr. V. Arden McLean: Yes, Madam Speaker. The Second Elected Member for Cayman Brac said that there are no plans as yet: the Government is awaiting the feasibility study. I too will await the feasibility study because as I said earlier, I do not know who is going to build this dock when the Government does not have the money, but certainly the country is going to have to pay for it unless, of course, we have someone

out there who is that benevolent that they will give us the dock for free. If it is operated privately then the country will pay for it. Someone has to pay—the 'piper' has to be paid. He who plays the tune must be paid.

Now with regards to the proposed location, I grew up in East End in the days of plenty when you could do spearfishing along those shores. That was one area where only at specific times during the year could boats get around there, but as I said, I believe anything can be done. The cost is the key. There are people who say that is the best place to put it because it will be ashore in a short time, that is by bad weather. I cannot say that but I know that regardless of how this project is done, the people of the eastern districts are going to be inconvenienced.

Now, I understand this talk about when Quarry Products was at its peak of production—that the dock will only generate some 35 percent of that traffic. It is a completely different traffic! The trucks that haul aggregate are much smaller; very few semi-heads are used to haul aggregate. But hauling containers is a much more imposing type of traffic. Can you imagine all these trucks on the road through a predominantly residential area, that is, Breakers, Bodden Town, along the Cottage Road? The 1977 Development Plan did not make provisions for a lot of industrial zone, be it light or heavy, in the eastern districts, it was neighbourhood commercial on a limited basis.

I believe that the spirit of that Plan was to try to maintain some semblance of residential areas up on the eastern part of the Island. We had a recent review of that Plan and as far as I can understand, while the Report has not been completed, there are not a lot of proposals to change that, except in the sense of where there was a lot of agricultural residential we are now going to get low and medium density residential zoning. I support this, because one house per acre is not going to cut it any more in the agricultural/residential zones. We need areas for people to build affordable homes because land must be affordable.

We look at the transportation of fuel out of East End into George Town, because that is where the majority of the fuel is consumed on this Island and is sold. I know there may be talks of leaving the pipeline that is currently in place from Jackson Point up to Caribbean Utilities Company. That is all well and good, but we must remember that it is only an eight-inch pipeline and pumping a few million gallons of fuel through an eight-inch pipeline is going to take a very long time. The pipeline will need to be changed if it is going to be left there to service CUC. Who is going to pay for all of this if we relocate the fuel from South Sound, which we all agree is needed, and then take it all the way to East End, and have to truck it back into town to service the service stations?

As far as I know, there are just about four service stations on the eastern end of the Island: Bodden

Town, North Side, East End and Savannah. I believe the areas are adequately served, but if someone wants to go into that type of business that is entirely up to them. I am saying that the majority of it has to be brought back out of there.

Why is it that we did not look at relocating the fuel farm from South Sound to the industrial area? That is somewhere behind the CUC Plant where there is much land. I know Cable and Wireless at one time was proposing to relocate some of their activities behind there. Why is it that we do not relocate to there? Yes, CUC might need to be expanded because that is the biggest single user of fuel on the Island, but that is an ideal spot to relocate the fuel, as it is already heavy industrial.

Why do we have to move the dock all the way to East End? I think it is 'penny wise and pound foolish'. The infrastructure from Savannah going into East End was never built to support that type of industry. The roads are narrow. In a lot of instances those roads are merely thirty feet wide. The Government will have to look at building a road to accommodate the additional traffic. At the very least, we need to look at a road to accommodate additional traffic.

Madam Speaker, we hear rumours of the "dump" being moved to the eastern end of this Island. Where are we going to put the dump? At the same time we hear that the Government is negotiating with the passenger liners out of Miami to build mooring facilities in West Bay. Nevertheless, we have Spotts which is the alternate place right now to the facility in town. Why is it that area cannot be developed?

Why is it, Madam Speaker, that the dock cannot stay right in George Town? We are talking about accidents. The dock right now is under-utilised. And when I hear about accidents, I take it to mean cargo and passengers coming off on the same dock. There is adequate room right here in George Town. The marine life is already destroyed here why go someplace else and destroy another set of marine life for miles? We can put the dock right here in George Town. It can be separated and then we will not have any sleepless nights about accidents happening and nightmares about it happening. I do not know why we have this idea of moving out there but I would like to see the feasibility study. Certainly, if anything is left out of it, we will see that too, because there is much to be studied on a project of this size.

I understand that there will be benefits derived from a dock being in East End, I understand all that, but will we be able to weigh them and say that there are more benefits than disadvantages? Will there be more advantages than disadvantages? I do not believe that there will be more advantages than disadvantages of removing the dock from town, a full-fledged cargo dock and putting it all the way in East End.

Who do we think is going to pay the additional cost to merchants? The same 'little man' whose cause we have championed. Those are the same people.

Someone said to me a few days ago, it would probably be cheaper to buy cows and milk them, than to go and buy milk from the grocery store. I cannot see the benefit—I will have to wait like everyone else—of putting a dock all the way in East End.

Now, if we think that the dock is getting opposition, we will wait until we hear the proposal for the Dump, then we will go into it! I recognise that East End has the greater land mass, but it is not any dumping ground! There are alternative ways of dealing with garbage and the Government was looking at those ways. I trust that those studies will also be produced, because it will be serious opposition to a regular dump in East End, where it is just thrown there and covered and thrown and covered and burnt – no, Madam Speaker.

I know they have said that George Town has hosted the dump for many years and it is time to move on and maybe it is time to see about putting it elsewhere. I think the Government needs to think twice about putting it in East End. Let us look at alternative ways of getting rid of all that is generated in this country, Madam Speaker, there are ways to do it.

Before I leave I would like to clarify something: In a recent meeting I had in East End the papers had a caption that ninety per cent of East Enders were against the dock. In the article they said that I said ninety per cent of the people I had spoken to were against the dock and that is true. Ninety per cent of the people (and maybe more) I spoke to in East End concerning the dock were against it. These people need to be listened to; they have to live in their own district. At least, respect their views; respect their opinions! I await the UDP Government response to that. I am not the only person to be listened to; I merely represent the majority wishes of the people. I believe the majority of the people have problems with the dock.

I have sailed all over. I have been to more docks than many in this Honourable Chamber have ever seen, that includes the Minister for Community Services. *[Laughter]* Madam Speaker, as I said, all the docks I have ever been to operate twenty four hours a day and the Governor in his Throne Speech says, "**The Port Authority forecasts no real increase in cargo tonnage in 2002 over the levels experienced last year**". So, why are we on this campaign to build another dock, Madam Speaker?

One of the things I have also said since the proposal came out is, that I do not see the conservationists from George Town saying anything about a dock in East End, but every time they go South Sound to cut one tree, we get a case in the Court.

The Speaker: Honourable Member for East End, is this a convenient time as we have reached the hour of interruption?

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

The Speaker: Can we have a Motion for the adjournment?

ADJOURNMENT

Hon. Gilbert A. McLean: Madam Speaker, I move that this Honourable House, adjourn until 10 am on Monday, the 25th.

The Speaker: Thank you. The question is that this Honourable House do now adjourn until 10 am Monday, 25 February. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. The House stands adjourned until 10 am Monday, 25 February 2002.

At 4.36 pm the House stood adjourned until Monday, 25 February 2002, at 10 am.

OFFICIAL HANSARD REPORT
MONDAY
25 FEBRUARY 2002
10.48 AM
Fifth Sitting

[Deputy Speaker in the Chair]

The Speaker: I invite the Honourable Third Official Member to say Prayers.

PRAYERS

Hon. George A. McCarthy: Let us pray.

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

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

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

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

Proceedings resumed at 10.51 am

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

Apologies

The Speaker: Please be seated. Proceedings are resumed.

I have received apologies from the Honourable Speaker who is not feeling well and who is hop-

ing to be able to join us for the afternoon session. I also received apologies for the Honourable Second Official Member, but I see that he has now joined us.

I would like to apologise for the late start of this Honourable House due to unavoidable circumstances.

**QUESTIONS TO HONOURABLE
MINISTERS AND OFFICIAL MEMBERS**

The Speaker: The Second Elected Member for George Town.

Question No. 10

(Deferred Friday 22 February 2002)

No. 10: Mr. Alden M. McLaughlin asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce, what is the current employment status of the Director of the Port Authority.

The Speaker: The Honourable Minister for Tourism.

Hon. W. McKeeva Bush: Mr. Speaker, let me first of all clarify that the question is referring to the former Port Director, Mr. Errol Bush, and not the current Port Director, Mr. Paul Hurlston.

The former Port Director took up his position on the 1 January 1987 by way of a letter of appointment from the then Chairman of the Port Authority. His initial appointment was for a period of 5 years at an annual salary of \$36,252.

On the expiration of his appointment he entered into a contract of employment with the Port Authority on the 1st January 1992 for a period of five years at an annual salary \$60,600. His contract was renewed on the 1 January 1997 for a further three years at an annual salary of \$80,856. His last contract commenced on the 1 January 2000 and was also for a period of three years. His annual salary was \$112,536 and additional benefits were as follows: -

- a) An annual gratuity of 20% of his annual salary which was \$22,507.20.
- b) On the third anniversary of this contract he was entitled to be paid the cash equivalent of three club or equivalent class airfares from Grand Cayman to London, England, which is approximately \$10,000.
- c) The Port Authority was obliged to provide the Director with a motor car equipped with a cellular phone, and the Authority was responsible for all

running costs and maintenance associated with this vehicle.

- d) Twenty-eight working days annual leave.
- e) Insurance in the sum of \$500,000 while the Director was travelling on business, holidays or for medical reasons.
- f) Disability and Life insurance in the sum of \$50,000, and
- g) Health insurance for the Director, his spouse and children and his contract requires and I quote, **"The Director, his spouse and children shall remain beneficiaries of the said policy of health insurance notwithstanding the expiry of this agreement or the resignation of the Director at no cost to the Director"**.

Honourable Members will recall that before I took office in November 2000, there was a George Town Port redevelopment programme planned which the public objected to. Madam Speaker, Honourable Members will be aware that early last year we proposed the redevelopment of the George Town Port to enhance the cruise ship facilities and repair the finger pier for the cargo operations. There was some disagreement with the Port Director on the future of the Port, including where to locate the existing cargo operations within the George Town Port and it became obvious that it would not be possible to reconcile these differences.

I, along with my Ministry's Permanent Secretary who is also the Deputy Chairman of the Port Authority, met with the Port Director on 23rd August 2001, to discuss the issue. He advised us that he felt he would not be able to continue as the Port Director in the circumstances and that he would resign if the Port Authority would compensate him in accordance with his contract. He was told that the decision as to whether or not he would resign was a matter for him to decide but that as he was already on annual leave and because he had accumulated a total of 114 days annual leave, he should continue on leave until the matter was properly considered by the Port Authority. A letter was subsequently sent to the Port Director confirming our meeting and what was discussed.

On 23 November 2001, the Port Authority discussed the matter and unanimously decided to terminate the Port Director's contract and to compensate him in accordance with the termination provisions of his contract. The matter was referred to the Legal Department for their advice which was subsequently received and this confirmed that the Port Authority's decision was in order.

On 30 November 2001, the Port Director met with the Permanent Secretary in my Ministry who, as said before, is also the Deputy Chairman of the Port Authority, and was advised verbally and in writing of the Port Authority's decision to terminate his contract with effect from 31 December 2001. He was also advised of the decision to pay him in accordance with the termination provisions of his contract and for his outstanding annual leave. The total payment to the

Port Director was CI\$177,036.14, which was in accordance with his contract and this payment was handed over along with the letter of termination.

On 7 December 2001, the Port Director wrote to me as Chairman of the Port Authority claiming that he was entitled to severance pay and additional payment for being unfairly dismissed. He further claimed that his estimate for the cash equivalent of three club class airfares from Grand Cayman to London, England was CI\$10,523.02 and as we had only paid him CI\$10,000, he was requesting the additional CI\$523.02. He also disputed the number of annual leave days which he had outstanding.

It was accepted that the Port Director was entitled to severance pay but it was not accepted that he was unfairly dismissed. The latter was referred to the Legal Department for their advice. The dispute with respect to the outstanding annual leave was referred to the Port Authority Administration for them to reconcile. The Port Authority Administration discovered that they had in fact made an error with his outstanding annual leave. The total amount of outstanding annual leave days were 32 and not 22, as was originally calculated by the Port Authority; nor was it 31 as calculated by the Port Director.

The Legal Department subsequently gave advice with respect to the former Port Director's claim of being unfairly dismissed. As a result there will be no additional payment with respect to his claim for unfair dismissal.

It follows that, in addition to the CI\$177,036.14 which we have already paid the former Port Director, he will now receive an additional payment of CI\$30,181.90 which is broken down as follows: - a) Severance pay of CI\$25, 870.20; and b) 10 additional days outstanding annual leave which amounts to CI\$4, 311.70.

Finally, Mr. Speaker, I can advise this Honourable House that prior to the Port Authority's decision to terminate the former Port Director's contract, we requested that the Auditor General carry out an audit of the Port Authority and report specifically on the following in addition to other things: -

- (a) Determine the current financial position of the Port Authority;
- (b) Review the situation relating to the acquisition of the computer system at the Port Authority which is reported to be an ongoing project that has cost the Authority in excess of CI\$500,000; and
- (c) Review the operations of the Cargo Distribution Centre (CDC) in the Industrial Park (including the development of the administration building which is 2,400 sq ft and is reported to have cost the Port Authority almost \$800,000.

Mr. Speaker, the audit is in progress.

Supplementaries

Mr. Speaker: Are there any supplementaries? The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. In the first paragraph on page 2 of the answer, the Honourable Minister said that the Port Director was told that the decision as to whether or not he would resign was a matter for him to decide. And then in the following paragraph it goes on to say that, "On the 23rd November 2001, the Port Authority discussed the matter and unanimously decided to terminate the Port Director's contract . . ." I wonder if the Honourable Minister could say what caused them to move from the position where the Port Director was told that whether or not he wished to resign was a matter for him (which was, I think around the 23rd August 2001, to a situation on the 23rd November 2001) whereby the Port Authority determined it should terminate his contract.

The Speaker: The Honourable Minister for Tourism.

Suspension of Standing Order 23(7) and (8)

Hon. W. McKeever Bush: Mr. Speaker, before I go into that supplementary question under Standing Order 83, I think, I suspend Standing Order 23(7) and (8) in order to take questions after 11 o'clock.

The Speaker: The question is that Standing Order 23(7) and (8) be suspended to allow Question Time to continue beyond 11 am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended.

Hon. W. McKeever Bush: Mr. Speaker, I do not think I need to repeat what I said in the first paragraph on page 2, nor do I need to repeat what I said. However, I can say that once the matter got to that point where he was told, I felt like I had to go to the Port Authority and let them decide because the Port Authority is the governing Board.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. I am grateful to the Honourable Minister for that response but it did not answer my question. I will repeat the question: On 23 August 2001 the former Port Director was told that the decision as to whether or not he would resign was a matter for him to decide. He then went on annual leave and on 23 November 2001, the Port Authority discussed the matter and unanimously decided to terminate his contract. The question is: What transpired between 23 August and 23 November which changed the position from one whereby the matter of whether or not he would resign

was one for the Port Director, to a situation where the Port Authority terminated his contract?

The Speaker: The Minister of Tourism.

Hon. W. McKeever Bush: Mr. Speaker, I think that the answer to the question in the first paragraph is very clear and I will read it. "**There was some disagreement with the Port Director on the future of the Port including where to locate the existing cargo operations within the George Town Port, and it became obvious that it would not be possible to reconcile these differences. It is obvious that there were differences of opinion. I, along with my Ministry's Permanent Secretary who is also the Deputy Chairman of the Port Authority, met with the Port Director on the 23rd August 2001, to discuss the issue. He advised us that he felt that he would not be able to continue as the Port Director in the circumstances and that he would resign if the Port Authority would compensate him in accordance with his contract. He was told that the decision as to whether or not he would resign was a matter for him to decide but that as he was already on annual leave and because he had accumulated these many days he would continue on that annual leave. I took the matter to the next Board meeting, which was my duty as Chairman, where it was discussed and unanimously decided to terminate the Port Director's contract**".

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Mr. Speaker, the reason for the question was to determine why a decision was taken to terminate the Port Director's employment. I wonder if the Honourable Minister can confirm that had the Port Director resigned, rather than having been terminated, the Government would not have been liable to pay him severance pay.

The Speaker: Honourable Minister for Tourism.

Hon. W. McKeever Bush: Mr. Speaker, I cannot speculate as to what someone may have done. We took the matter as things progressed and I allowed the Port Authority to decide, although I should say that the Port Authority Board had not seen the contract—they knew nothing about what kind of contract existed—until I took it to them in that same meeting on 23 November 2001.

The Speaker: The Second Elected Member for Cayman Brac.

Mr. Lyndon L. Martin: Thank you, Mr. Speaker. As a follow up to the comments just made by the Leader of Government Business, could the Minister indicate who is responsible for signing the last contract which would

have been the contract of the 1 January 2000 to 2003? since he said that the Port Authority Board did not see the contract.

The Speaker: The Honourable Minister for Tourism.

Hon. W. McKeeva Bush: Mr. Speaker, I think what is normal is for the Chairman to sign the contract after the Port Authority—or any authority—Board has gone through the contract and agreed on it. But the Port Authority Board did not see this contract until I produced the contract on the 23 November 2001. That contract was signed by the former Minister and Chairman of the Port Authority, Mr. Tom Jefferson.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. The substantive answer refers to an additional payment of \$30,181.90 and of that, severance pay makes up \$25,870.20. I wonder if the Honourable Minister could confirm that as a matter of law that severance pay would not have been payable had the Port Director resigned rather than having been terminated by the Port Authority.

The Speaker: Honourable Minister for Tourism.

Hon. W. McKeeva Bush: Mr. Speaker, the Member is right. But had we forced him to resign the other section of the law would have talked about constructive dismissal.

The Speaker: The Second Elected Member for the district of Cayman Brac.

Mr. Lyndon L. Martin: Thank you, Mr. Speaker. Returning to the point made earlier that the contract that we are now talking about whether it was terminated or not was signed by the then Minister, Mr. Tom Jefferson without the knowledge of the Port Authority Board. Can the Minister indicate whether the Board and his Ministry were fully aware of all the terms and conditions of the particular contract at the time of deciding its termination including the expiration date of the contract?

The Speaker: Minister of Tourism.

Hon. W. McKeeva Bush: Mr. Speaker, in 2000 when I took over, I guess it was at the end of November or sometime in December (since my official visit) I visited the Port Authority with my Permanent Secretary to see what the situation there was and to see what the [Director's] contract was like. We had been told that I could see the various contracts including the computer contracts on other matters. But of course, nothing was forthcoming and nothing happened until later when I, with the present Permanent Secretary, had a

chat with him [the Director] on the contract. He told us that the contract that had been terminated recently which was signed—I think I said on the 1 January 2001—was expiring at the end of last year which would have been January to December, a 12-month period then the full 2001 period (which was two years) and would have ended last year. That is what he told my Permanent Secretary and me. Up until then we still had not seen it. However, when we finally got a copy of the contract it showed that it was a three-year period instead of a two-year period, and as I said I had not seen the contract up until then.

The Speaker: The Second Elected Member for Cayman Brac.

Mr. Lyndon L. Martin: Thank you, Mr. Speaker. I cannot help but be a bit disturbed at this matter which I think needs to be probed a bit further. Mr. Speaker, could the Minister indicate, if my understanding is correct, that no contract was produced to the Board or to his Ministry that stated the contract was for three years prior to talks of resignation and termination?

The Speaker: Honourable Minister.

Hon. W. McKeeva Bush: I can confirm that, Mr. Speaker. Neither the Permanent Secretary nor myself had seen the contract until it was produced when it was time to add up the benefits.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. The Minister said in the substantive answer that he was speaking of the Director. His last contract commenced on the 1 January 2000 and that the Port Authority's board members had not seen that contract, and the usual process is that the Chairman signs it following a review of it by the board members. Can the Minister tell us whether or not he is aware that the board members did not see it, and if those board members are the same persons that exist now under his Ministry?

The Speaker: Honourable Minister for Tourism. I will allow one more supplementary.

Hon. W. McKeeva Bush: Mr. Speaker, the present board has a membership consisting of members of the old board like Mr. Dave Foster, Mr. James A. Bodden, the Collector of Customs, Mr. Colford Scott and various other persons, but it also has new members on it that were appointed early last year like Mr. Bing Thompson, Mr. Frankie Flowers and two other members. I took this matter to the Board and inquired of the old Board members and not one of them had seen it.

The Speaker: Second Elected Member for Cayman Brac.

Mr. Lyndon L. Martin: Thank you, Mr. Speaker. I am sure that the Port Authority Board would have some form of legal vetting of contracts prior to entering into them. I would ask if the Minister could confirm that all necessary checks have gone through to ensure that the contract which only had the one signature was an authentic one.

The Speaker: Honourable Minister.

Hon. W. McKeeva Bush: Mr. Speaker, in saying that the contract as signed by Mr. Jefferson only had one signature, I can confirm that the person who witnessed the signature was his personal secretary at the time. The Legal Department went through this and that is why we took some time to get the answer to the House. Several times, as Members will recall, it was deferred and I did report that the Permanent Secretary was working on it.

I can say to this Honourable House that in appointing the new Director, Mr. Paul Hurlston, the Port Authority of the Cayman Islands went through everything and agreed to his terms of employment.

The Speaker: The Elected Member for East End.

Question No. 14

No. 14: Mr. V. Arden McLean asked the Honourable Third Official Member responsible for Finance and Economics, if a system has been implemented to allow for the collection of the accommodation tax for time-share units, and if so to give details of the accountability process.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Thank you, Mr. Speaker. The 2002 Budget address outlined that a time-share fee would be introduced during the year which would yield revenue of \$1 million. The authority for the imposition of a timeshare fee will be sought from the Legislative Assembly in the form a Bill which seeks to amend the Tourist Accommodation (Taxation) Law 1996 Revision.

The Bill will seek to charge a fee of US\$10 for each night that a time share unit is occupied by the owner of that unit or by an 'exchanger' in the 'time-share pool' or by guests of the owner. The fee of US\$10 has been discussed extensively with the local time-share industry operators and it has been agreed that this is a reasonable amount to charge without adversely affecting the industry.

The collection of the time-share fee will be carried out under the same regime as that used for Tourist Accommodation Tax Law.

Supplementaries

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Can the Honourable Third Official Member outline exactly what regime is used for the collection of the Tourist Accommodation Tax?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, the regime that is in place for the Tourism Accommodation Tax Law is as follows: Under the Tourism Accommodation Tax Law, tourism operators are required to keep details of the number of nights any of their units are occupied. These details are normally submitted with the monthly payment that will be remitted to the Tourism Department now instead of the Treasury department. Payments of fees are normally required 28 days after the end of a month to which the Tourism Accommodation Tax is collected. Late payment attracts a surcharge of 20 per cent of the fee that is payable for that period.

The Government has a right to obtain evidence (and this is normally substantiated by a copy of the Bill that is handed to the guests being submitted to the Treasury Department, accompanying the accumulated fee) and any misleading information carries a fine of \$50,000 or three times the amount of fee that is due on payable, whichever the greater or an imprisonment term of two years.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. When this question came up early last year we went through it extensively about that same process and accountability, and I think it was withdrawn. The House would not agree to it because an accountability process is not in place.

In so saying, Mr. Speaker, I wonder if the Third Official Member can tell us if there is an office within his Portfolio or elsewhere that audits this particular accountability for the collection of taxes, which is The Tourist Accommodation Tax.

The Speaker: The Honourable Official Member.

Hon. George A. McCarthy: Mr. Speaker, in terms of the accountability process the Department of Tourism, now the Collecting Agency for Tourism Accommodation Tax and will be in respect of timeshare, will verify the payment against the taxes that are stated on the timeshare bills or guests' invoices. These will accompany the total payment that will be made through that Department and will be passed on to the Treasury Department.

In terms of what the Honourable Member for East End said, it was not so much the accountability

process that created a difficulty last year, but the attempt was being made to address this issue under the Stamp Duty Law. Between that time some thought had to go into the process in terms of what would be the best way of addressing this.

If the Honourable Member will recall, there was also the argument put forward that it would be based on the number of persons occupying a unit, and that in itself posed a problem. It was felt that the best way to do this and the best process of verification would be on the number of rooms in the unit.

So, this is why it has now been sorted out and has been brought to this level. Mr. Speaker, in terms of outlining the key features of accountability for the Honourable First Elected Member of George Town that was what has been set out for the timeshare, and I just introduced Tourism Accommodation Tax but I think for better understanding it will be much better if I were to just read specifically what will apply to the timeshare, if you will permit.

The key features of the accountability process under the Tourism Accommodation Tax Law 1996 Revision, will also be applied to the timeshare fee. These key features are as follows: -

1. Timeshare industry operators will be required to keep details of the number of nights that units have been occupied.
2. These details will accompany the monthly payment that will be made to the Government. This is to the Tourism Department for onward transmission to the Treasury. This will enable Government to determine whether the payment received is consistent with the number of nights that the timeshare units have been occupied.
3. Payment of timeshare fee will be required by the 28th day after the end of the month in which the timeshare unit has been occupied.
4. Late payments will be subject to a 20 per cent surcharge, and
5. The Government will have a legal right to obtain evidence from the timeshare industry operators to verify that the amount being paid is correct.

Mr. Speaker, the Internal Audit Unit, together with the Department of Tourism, will be auditing three hotels on a quarterly basis and this will allow for additional verification as to systems that are in place in order to support the detailed information that is being transmitted to the Tourism Department which in turn will be passed on to the Treasury Department.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. Can the Minister then tell us if the audit that he spoke to for the hotels will also apply for the timeshare establishments in the country?

Hon. George A. McCarthy: Yes, Mr. Speaker, it will.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Honourable Third Official Member state if, as in his answer the very first paragraph which says, "**The 2002 Budget address outlined that a timeshare fee would be introduced during the year which would yield a revenue of \$1 million**". Can he say when that revenue was projected, at what point in time during the year was it foreseen that the collection of this \$10 per night would begin and if so, does it match up when it is anticipated to be collected now?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: *[Pause]* Mr. Speaker, it was intended that the timeshare fee would have been in effect for the entire year. In the next question to follow, the proportionate amount that is likely to be collected during the course of 2002 will be shown and that will represent approximately 75 per cent of what has been due. The reason being as Honourable Members can appreciate, the numerous regulations and Bills that had to be worked on by the Legal Department.. The Legal Draftsman that has been assigned to work on these pieces of new legislation and regulations has been working since the Budget. We are hoping that this Bill, together with others that are due to allow for the raising of other areas of revenue, will be completed and presented during this meeting.

The Speaker: Are there any further supplementaries? If not, Madam Clerk.

The Elected Member for East End.

Question No. 15

No. 15: Mr. V. Arden McLean asked the Honourable Third Official Member, if there is an anticipated shortfall in recurrent revenue for the year 2002, and if so, why?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: The 2002 Budget shows that Recurrent Revenue is estimated to be \$335.1 million for the year. That figure is inclusive of a number of Revenue Measures that were detailed in the 2002 Budget Address.

Some of those Revenue Measures have not been implemented as yet and it is likely that any shortfall in revenue will be as a result of those Measures not yet in place as of the 1 January 2002.

The revenue measures that are not yet in place along with their associated incremental or additional revenue estimate for 2002 are as follows: -

Timeshare fee	\$1 million
Local vessel fee	\$0.5 million

Garbage fees	\$3.8 million
Parking fees	\$1 million

Mr. Speaker, brief comments on the implementation status of these Measures are as follows: -

- A Bill will be brought to the Legislative Assembly to implement the timeshare fee. It is envisaged that this will be done during the present Sitting of the House;
- A Bill will be brought to the Legislative Assembly to implement changes to local vessel licence fees. This is also likely to occur during the present Sitting of the House;
- Considerable progress has been made in the task of updating the Department of Environmental Health's billing database so that it captures the majority of the residential households in the Islands that receive garbage collection services;
- Progress has also been made in the process of implementation of parking fees. The areas in which charges will be levied for parking have been established; it has been agreed with the Police Department that the Department will enforce the Measure and price quotations have been obtained for the machines that are necessary in the implementation of this Measure.

Mr. Speaker, if a pessimistic view is taken of the amount of additional revenue to be derived from these Measures during 2002, the resulting amounts might be as follows: -

\$0.75 million	In respect of the timeshare fee – being three-quarters of the full year's estimate, since it is expected that the Measure will be in place by April;
\$0.25 million	In respect of the local vessel fee – which is 50% of the full year's estimate;
\$1.9 million	In respect of garbage fee – which is 50% of the additional revenue budgeted for 2002;
\$0.25 million	In respect of the parking fee – which is 25% of the full year's estimate.

These pessimistic estimates of additional revenue to be earned from these Measures during 2002, total \$3.15 million

The 2002 Budget states that \$6.3 million of additional revenue is expected from these Measures; resulting in a possible shortfall of \$3.15 million.

To mitigate against this possible shortfall, Government has taken the sensible approach of 'reserving' the Capital Acquisition expenditure figure of \$5 million that is contained in the 2002 Budget.

Government will also closely monitor actual revenue collection versus budgeted figures on a monthly basis. This was done for the month of January which revealed that by the end of January 2002, 18 per cent of the entire year's budget had been collected as compared to 12 per cent in January 2001.

I should mention that the \$1.9 million that is suggested which is 50 per cent of the incremental revenue on garbage fee, is a very conservative position because at this time work has already commenced on putting in place the database in terms of meeting with the relevant agencies to get the relevant particulars so that it will be up and running as quickly as possible.

The Speaker: Are there any supplementaries?
The Elected Member for East End.

Supplementaries

Mr. V. Arden McLean: Thank you, Mr. Speaker. I wonder if the Honourable Third Official Member can explain to us how the database that he just spoke of will be put in place, that is, for the garbage collection.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: There is a committee that has been put together in order to review the relevant information concerning all households in the Island. Meetings have been held with CUC and they have provided us with details of all households that are presently in the Islands for which billings are being made. That information is being looked at very carefully and appropriate measures will be determined to decide on which bands.

Members will recall during the presentation of the Budget it was proposed that each household would fall within a given band. At that time it was envisioned that this would be based on kilowatt hours but kilowatt hours will not be the only criteria that is used; other variables will be looked at in addition to kilowatt hours in order to determine where a household is placed. At this time there are persons from the Portfolio of Finance and Economics, Lands and Survey Department, Planning Department, Environmental Health Department and Computer Services that are working on the information that has been gleaned to date with a view of putting in this database.

The Speaker: The Second Elected Member for Cayman Brac.

Mr. Lyndon L. Martin: Thank you, Mr. Speaker. In the answer given the Third Official Member detailed a pessimistic estimate of additional revenue to generate a shortfall of \$3.15 million. He also detailed the fact that the Government has taken necessary action of holding back on capital acquisition of \$5 million to ensure that the Budget remains balanced.

A latter part of the answer he detailed was that in January of 2002, revenue collection was 18 per cent of the entire year's Budget as compared to 12 per cent in January of 2001. This would suggest that where there are some items—they are shortfall—there must be other items that have a surplus of what was

budgeted. Could the Third Official Member indicate if this is an accurate assessment?

The Speaker: Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I can confirm that the revenue measures are performing with the exception of the four that I have outlined but have not been implemented as yet.

In comparing the various categories, for example, we take Customs Import duty: for the month of January 2001 collected was \$10,624,593. For January 2002, \$8,298,582. Although the amount in 2002 is less than the amount collected for January 2001, there are elements in 2001 that are not in 2002. For example, the Import duty on gasoline: we know that whenever a tanker arrives the duty that is paid is quite substantial.

So, we have to be working on a cumulative month by month. We have compared the month of January 2002 with January 2001. At the end of February we will be comparing the cumulative position of January and February 2001 against January and February 2002. And if it is seen that the revenue areas are not performing as they should, and we project forward, let us say, any likely shortfall, for example, where the \$3.15 million has been identified as not likely to be collected, the Government has taken a decision to implement measures in order to try and contain expenditure in that area so we move forward on a balanced budget process.

We take under what is called other charges—I am just giving the broad categories for January 2001 and January 2002.

JANUARY 2001	JANUARY 2002
<i>Other charges</i> \$2,411,464	<i>Other charges</i> \$1,966,055
<i>Licences (Inc. Bank licence)</i> \$13,332,419	<i>Licences (Inc. Bank Charges)</i> \$32,925,051
<i>Fees</i> \$12,645,721	<i>Fees</i> \$15,871,616
Total \$39,898,065	Total \$60,171,525

So what is being shown is that this is how this 18 per cent increase has been arrived at.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Mr. Speaker, with the greatest of respect, the Honourable Third Official Member not only remained on the periphery of the question but he has gone beyond the periphery. The question asked if it was sensible to assume that because it was 18 per cent in the month of January collected for 2002, and it was 12 per cent collected for 2001, that there would be a surplus. The Member has not answered the question and perhaps the Member should answer the question, or say he cannot.

The Speaker: Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I will say thanks to the Honourable Member for reminding me what the question was. I cannot recall that it was in those specific words. I cannot recall whether the Honourable Member for Cayman Brac asked if there was going to be a surplus because surely at this point in time one hopes for a surplus through prudent fiscal management. But I could not stand here, Mr. Speaker, and confirm that there is going to be a surplus at the end of the year. We are managing the finances of Government in such a way to achieve its surplus and the efforts that are being made at this point in time is to achieve that end.

The Speaker: The Member for North Side, then the Second Elected Member for George Town, the Third Elected Member for Bodden Town, and then the Second Elected Member for Cayman Brac.

The Member for North Side.

Ms. Edna M. Moyle: Mr. Speaker, if the Honourable Member has a follow up on the previous question I will give way because I intend to ask on another matter.

The Speaker: Thank you. The Second Elected Member for George Town.

Mr. Alden M. McLaughlin: Thank you, Mr. Speaker. I would like to thank the Elected Member for North Side for her courtesy. In the substantive response the Honourable Member outlined four areas in which he says if a pessimistic view is taken of the amount of additional revenue to be derived from these measures, there might be a shortfall which he placed at some \$3.15 million. I wonder whether the Honourable Third Official Member can say that these are the only four areas. Based on current trends there is a projection that there will be a shortfall in Government revenue for this year.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, we have only looked at one month out of the year so far (January). We are still in the month of February. We will not have the end of February's position until the end of February comes about. The Government is taking every precaution in terms of looking at the revenue flows on a month-to-month basis. Given what has occurred during the course of last year, this is the fairest means of assessing the revenue flows on a progressive basis.

Therefore, at this point in time, the Government cannot say that there are going to be specific shortfalls in other areas, and I would not want to run the risk at this early stage only to point out performance in terms of the actual results as at the end of

January. I mentioned the Government will continue to monitor on accumulative month-to-month basis.

The Speaker: The Third Elected Member for Bodden Town, are you continuing on the same . . .

Mr. Anthony S. Eden: Yes, Mr. Speaker. Could the Honourable Member share with the House the information he read from earlier on.

Hon. George A. McCarthy: Yes, Mr. Speaker, I can share the details as to how the total of \$60,171,525 compared to \$39,898,065 for the year 2001, were arrived at.

The Speaker: Thank you, Honourable Member for Cayman Brac. Are you still on the same line or were you going on a . . . ?

Mr. Lyndon L. Martin: Mr. Speaker, I want to clarify as the First Elected Member for George Town has requested my earlier question. The Third Official Member detailed four areas in which they were expected to be a shortfall of some \$3.15 million. I then asked—based on the information that January of 2002 was going to be 18 per cent of total revenue for the year where January of 2001 was 12 per cent of the total year—were there other items in the Budget that were surpassing that amount expected in the Budget estimate of 2002.

In the details provided earlier, the Third Official Member detailed particular items. But for the sake of emphasis I would like for the Member to restate what is the total revenue figure for January 2002 compared to 2001, and for the House and the general public to understand that the Budget of the year 2002, despite the shortfalls of four particular items is ahead of what it was in 2001.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, the details which I provided earlier in terms of those items that are ahead and those lagging behind are: -

Customs Import Duty	
2001	\$10,624,593
January 2002	\$8,298,582
Charges	
January 2001	\$2,411,464
January 2002	\$1,966,055
Licences	
January 2001	\$13,332,419
January 2002	\$32,925,051
Sales	
January 2001	\$527,100
January 2002	\$391,774
Fees	
January 2001	\$12,645,721
January 2002	\$15,871,616

Fines	
January 2001	\$71,374
Services	
January 2001	\$130,797
January 2002	\$157,308
Rental/Leases	
January 2001	\$26,332
January 2002	\$22,670
Loans/Interest	
January 2001	\$60,963
January 2002	\$40,056
Miscellaneous	
January 2001	\$67,303
January 2002	\$390,061
Total	
January 2001	\$39,898,065
January 2002	\$60,171,525

Point of Order

Mr. V. Arden McLean: Mr. Speaker, if I may, on a point of order.

The Speaker: Can I hear your point of order?

Mr. V. Arden McLean: Mr. Speaker, I appreciate the Third Official Member's answer but this same answer was given to us a few minutes ago. It is bordering on repetition.

The Speaker: I have listened to the Honourable Official Member and I do agree that it is. But I think the question was asked a second time for emphasis, so I am asking if the Honourable Third Official Member could complete his answer as quickly as possible so that we could move on the next supplementary.

Hon. George A. McCarthy: Thank you, Mr. Speaker. I know I gave part of the information earlier but I was asked to restate the information. *(Completes list of information)*

The Speaker: Elected Member for North Side.

Ms. Edna M. Moyle: Thank you, Mr. Speaker. I wonder if the Honourable Third Official Member, in his answer where he says, "**The areas in which charges will be levied for parking have been established**" could tell this Honourable House where those areas are?

The Speaker: Honourable Third Official Member. I have the Second Elected Member from the district of West Bay. After that I will allow for one more supplementary.

Hon. George A. McCarthy: Mr. Speaker, Honourable Members may regard this information to be somewhat tedious if I start to go through the details. I am wondering if the Honourable Member would accept a copy of what I have in my hand.

Ms. Edna M. Moyle: Mr. Speaker, I would like the answer on the floor of the House please. Thank you.

Hon. George A. McCarthy: Mr. Speaker, I will just have to repeat what I have here if you will permit that, Sir.

The Speaker: Could the Official Member try to make sure that it is concise as possible in regards to the question that was asked in relation to parking fees in particular.

Hon. George A. McCarthy: Mr. Speaker, I will just read as I have been doing earlier, not adding any information. Parking fees:

George Town (Elgin Avenue)

- ◆ Right side of the road, 6 North direction,
- ◆ Left side of the road 13 North direction. A total of 19 parking slots.

The Racket Club parking lot

- ◆ 300 or more are estimated.

Edward Street (from Scotia Bank to Courts Office)

- ◆ Left side of the road, 22 parking slots,
- ◆ The right side of the road 6 parking slots. A total of 28 parking slots

Albert Panton Street

- ◆ Left side of the road, 14 parking slots,
- ◆ Right side, 9 parking slots. A total of 23 parking slots.

Genesis Close

- ◆ Left side of the road, 14 parking slots.

Shedden Road

- ◆ Left side of the road, 7 parking slots,
- ◆ Right side of the road, 14 parking slots. A total of 21 parking slots

Cardinal Avenue

- ◆ Left side of the road, 15 parking slots,
- ◆ The back of Government Library parking lot, the left side of the road, 43
- ◆ On the right side, 73. A total of 116 parking slots.

Mary Street (next to Zepher House)

- ◆ Right side of the road 4 parking slots,

Fort Street (next to the Bank of America direction)

- ◆ Left side of the road, 11 parking slots.

Goring Avenue next to T-shirts of Cayman,

- ◆ Eastern direction, 6 parking slots.

The Royal Bank of Canada (along Elgin Avenue)

- ◆ Left side of the road, 4 parking slots.

The Post Office

- ◆ Right side of the road 3 parking slots.

This, Mr. Speaker, totals 264 parking slots.

The Speaker: Thank you. Elected Member for North Side is this a follow up?

Ms. Edna M. Moyle: Thank you, Mr. Speaker. I wonder if the Honourable Third Official Member could tell the House how this fee will be charged. Will it be an hourly, daily, weekly or monthly charge and what the actual fee will be?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, it will be on an hourly basis, and at this time it is projected to be at a cost of \$1 per hour. In terms of how it will be implemented, meter machines will be installed at various points, or machines that will allow for a person parking a vehicle to go and purchase a ticket for the amount of time that the user of the vehicle estimates that the vehicle will be parked by inserting whatever amount of money into the machine. That ticket will then be displayed on the windshield or dashboard of the vehicle.

The Speaker: The Elected Member from the district of North Side.

Ms. Edna M. Moyle: Thank you, Mr. Speaker. I wonder if the Honourable Third Official Member could tell the House who will be monitoring? Will it be the Police or meter attendants placed in town?

Hon. George A. McCarthy: Mr. Speaker, two or three meter persons will be employed to monitor the meters on an ongoing basis. They will fall under the Police Department.

The Speaker: Second Elected Member for West Bay. The final supplementary.

Mr. Rolston M. Anglin: Thank you, Mr. Speaker. The Honourable Third Official Member has outlined certain financial information for the year 2002 (January 2002 versus January 2001). Could the Honourable Third Official Member confirm to the House that the exercise was to show a month and month performance, not necessarily to reflect on whether or not there will be a surplus at the end of the year, because that is impossible to do simply by looking at the months.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Yes, Mr. Speaker, it will be a month and month performance. But as I mentioned earlier, with the month and month performance seeing what the revenue flows are and looking at the level of expenditure that will be taking place, it will allow the Government to monitor expenditure against revenue flows and to make adjustments as appropriate in order to maintain a balanced budget position.

The Speaker: The Elected Member for East End.

Question No. 16

No. 16: Mr. V. Arden McLean asked the Honourable Minister responsible for the Ministry of Planning, Communication, Works and Information Technology, what progress has been made in regards to Government's announced policy decision to deregulate the telecommunication industry.

The Speaker: The Honourable Minister for Planning, Communication, Works and Information Technology.

Hon. Linford A. Pierson: Mr. Speaker, substantial progress has been made. The Information and Communications Technology (ICT) Bill will lay the legal foundation for deregulation by establishing the necessary independent regulatory body, the ICT Authority. In addition, it will set the policy for such important issues as the new licensing regime, interconnection between suppliers' networks and the prohibition of anti-competitive practices. The drafting of this Bill has been completed and it will be brought to this Honourable House during this Meeting. Several preliminary discussions have been held with Cable and Wireless Cayman Islands Limited concerning the replacement of their existing exclusive licence with one or more non-exclusive ones. I am pleased to report that the Company continues to honour its public commitment to assist with the liberalisation process. Provided this degree of co-operation continues, I am confident that we will meet our target of September this year for the start of competition.

Supplementaries

The Speaker: The Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. Can the Minister tell us if the new draft Bill has been circulated for further public input?

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

Hon. Linford A. Pierson: Mr. Speaker, the draft Bill was laid on the Table of the Honourable House in November last year. Certain amendments have been made to that but not many of consequence. This Bill will be brought to the House, as I mentioned during this Meeting but the newly amended Bill has not been circulated.

The Speaker: Elected Member for East End continuing.

Mr. V. Arden McLean: Thank you, Mr. Speaker. I wonder if the Minister can tell us when it is anticipated that this new draft Bill will be circulated.

The Speaker: The Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, I stated earlier that the Bill has been circulated and the final version will be brought to this House during this Meeting.

The Speaker: Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. I appreciate the answer from the Minister but I asked about the new amended draft Bill. I am trying to ascertain when will that be circulated, and in particular to Members.

The Speaker: The Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, I am trying to be as clear as I can. I told the Honourable Member for East End that the original Bill was laid on the Table of the House in November, which gave ample opportunity to all stakeholders and the public for their input. We have received the input. The new finalised Bill will not be circulated again; it will be brought to this House during this Meeting.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. In the process of deregulation, can the Minister state with the establishment of the new independent regulatory body whether *part and parcel* of its remit will be to have anything to do with price controls, or will it simply be a matter of allowing competition to dictate what the prices will be?

The Speaker: The Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, the role of the ICT Authority is defined in the ICT Bill. For information for the House I would like to state several points and they are: -

- (a) To promote competition in the provision of ICT services and ICT networks where it is reasonable or necessary to do so.
- (b) To advise the Minister on ICT matters including compliance with Government's international obligations, market liberalisation and competitive pricing.
- (c) To investigate and resolve complaints from customers and service providers concerning the provision of ICT services and ICT networks.
- (d) To determine the categories of licences to be issued under this Law and The Electronic Transaction Law 2000.
- (e) To license and regulate ICT services and ICT networks as specified in this Law and The Electronics Transaction Law 2000.
- (f) To collect all fees including licence fees and any other charges levied under this Law or The Electronics Transaction Law 2000 or regulations made there under.
- (g) To resolve dispute concerning the interconnection or sharing of infrastructure between or among ICT service providers or ICT network providers.
- (h) To promote and maintain an efficient economic and harmonised ICT infrastructure.
- (i) To carry out duties and responsibilities of the administrative point of contact of the top level of the

global Internet domain name system as assigned from time to time to the Islands.

(j) To act on any matter referred to it by the Minister or the Managing Director.

(k) To carry out such other functions as are conferred on the Authority by or under this Law or any other law.

Mr. Speaker, to answer the question specifically, yes, the ICT Authority will be given the responsibility of collecting all fees including licence fees and any other charges levied under this Law or The Electronic Transaction Law 2000 or regulations made thereunder.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Honourable Minister—perhaps if necessary and he can decide by examples—give us some idea of what might be encountered as anti-competitive practices.

The Speaker: The Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, such matters as—and this is not exhaustive, it is just an example—as predatory pricing; cutting below a certain level so as to keep out competitors, that type of thing. But they are all detailed in the Bill, which will be brought to the House during this meeting.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. In the last paragraph of the Minister's answer when he speaks to the discussions that have been held with Cable and Wireless regarding the replacement of their exclusive licence with one or more non-exclusive ones, and he speaks to anticipating that if they remain on course with their public commitment to deregulation, that the time line of September can be met. If at any point in time this commitment by Cable and Wireless changes, does the Minister anticipate that there may have to be long legal drawn out processes, or has any thought been given to how that situation could be dealt with?

The Speaker: The Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, I am pleased to say that so far Cable and Wireless have given their indication that they plan to honour their commitment to Government: they plan to work with Government to establish a well-regulated and fair competitive market for telecommunications. I think it would perhaps be inappropriate and counter-productive to speculate as to what may happen if this communication and this co-operation did not continue. I would rather place the emphasis upon the co-operative discussions that are currently underway.

The Speaker: Before the Member continues, I would like to say that the proposed plan is that we carry on and finish Question Time since we started late this morning and then take the luncheon break. We are hoping that we will be finished by 1 o'clock.

The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Mr. Speaker, I am going by memory so perhaps I might need to be assisted.

When the Honourable Minister outlined the sort of job description of the Authority, I think one of the areas that he mentioned when he was going through an alphabetical list was that the Authority would basically have the power to deal with any conflicts which may arise, regarding the use of infrastructure between competing parties.

I would like the Minister, if possible, to expand on that to make sure that I understand exactly how that would work, because in my mind, infrastructure would have to be owned by some of the parties. I just want to make sure that what is being said is that if there are arrangements that need to be made for sub-letting of some of that infrastructure to another one of the companies, and there are problems with regards to some amicable arrangements, if whether the Authority would then have the authority to sit down with both parties involved and decide on what is fair and whether both parties would be bound to abide by whatever the ruling of the Authority is in that matter.

The Speaker: The Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, I believe that the specific quotation was (g) – “**To resolve dispute concerning the interconnection or sharing of infrastructure between or among ICT service providers or ICT network providers**”.

The Law that is generally applied, not only will it be applied here but throughout the world, is that a telecom provider would have to agree for interconnection with other competitors coming in at an agreed fee. They cannot just refuse not to provide that interconnection to competitors. If there was some dispute, then that would be resolved by the ICT Authority in regards to the fee and also in regards to the interconnection of the infrastructure.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. I want to follow up on the response to the final supplementary from the Elected Member for East End.

The Honourable Minister said that the final version of the Bill would not be circulated. I wonder if the Honourable Minister can say when Honourable Members of this House will have the final version of the Bill, and whether he can give me the assurance

that we will see it prior to it being placed on the Order Paper, and us being expected to debate it.

The Speaker: Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, as far as possible, as I have done in the past, I follow the Standing Orders by giving sufficient time for it to be passed out to Members. Certainly it will be before the Bill is taken by the House and he will have sufficient time to go through it. If that is not possible, I would just as quickly bring it at another meeting, but Members will have time to go through the Bill.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. I am glad that the Minister—maybe I was not asking my question clear enough. I did not really mean the public at large and I do apologise to you but I am thankful for your answer to the Second Elected Member.

Mr. Speaker, the First Elected Member for George Town asked a previous supplementary on the dispute between companies and the interconnection, infrastructure and the likes. I wonder if the Minister can tell us how that is all going to relate to physical infrastructure.

Will the telecommunication providers (be that Cable and Wireless or whomever else may come in) share the physical part of the Islands' infrastructure, be it Caribbean Utilities Company's (CUC) infrastructure with the poles, or, will they be putting down their own? Will the Authority also have responsibility for those sharing agreements, keeping in mind that CUC already has agreements with Cable and Wireless of which I am aware?.

The Speaker: The Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, normally the Authority would not get involved unless there is a dispute, but in sharing the infrastructure, whether it is cable or a mobile situation such as the AT&T is now sort of looking at, that is a matter that will certainly be decided between the provider and the competitor that is coming in. But this is not something that the ICT Authority would get involved in initially, unless of course there was a dispute in the matter.

The Speaker: Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. This may be asking the Minister's opinion but I would like to draw a little scenario and then ask him a question. In the instances where CUC and Cable and Wireless are now in an exclusive agreement to provide air space on their poles what would happen in the case where another provider comes in and wants to go into an agreement with CUC to work within that space for telecommunication? Would the Authority get in the

discussion between Cable and Wireless on their exclusive agreement and the new provider?

The Speaker: The Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, I am assuming that the Honourable Member is considering the process of after-deregulation and not at this point in time with Cable and Wireless having an exclusive agreement. However, if it is after the liberalisation process kicks in, hopefully in September, as I mentioned earlier, this is standard not just will it be in the Cayman Islands but throughout the world where the incumbent or the provider in place would share interconnection with others. Only if there is a dispute would this matter come to the ICT Authority. It is standard that the provider in place would share the air space, or whatever, with the competitor that is coming in, whether this is a situation with Cable and Wireless and CUC, or just with Cable and Wireless alone.

The Speaker: I will allow two more supplementaries.
The Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. With that exclusive agreement that currently exist between Cable and Wireless and CUC to operate and utilise Caribbean Utilities Company's infrastructure, if the Minister then can tell us: -

(1) Would he agree that exclusive agreements in the deregulation of the telecommunication industry certainly be anti-competitive, and

(2) If Government would allow those exclusive agreements to use the infrastructure to remain in place?

The Speaker: The Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, I would like to answer my Honourable friend but I would rather not speculate at this point in time.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. When I was asking the Minister about the ICT Authority having some type of remit with regards pricing and the Minister's answer was speaking to fees that would have to be collected by the Authority, what I was really referring to at that time was actual charges that would be levied by the various service providers as a matter of them doing business at a competitive level. Would the Authority at any time be dealing with any prices, for instance, deciding if this price was too high, et cetera? I think the Minister mentioned, regarding anyone with anti-competitive practices under charging just to run other competitors out of business. However, on the other side of the coin will there be any situation where the Authority will be able to say, 'Well, this price for the

service that is being provided is too high for the customer'.

The Speaker: Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, I was trying to listen to two people at the same time but I believe I might have understood the gist of the Honourable Member's question. Could he just repeat whether he was in fact talking about the leasing arrangement for interconnection. *[Inaudible response]* Yes, Mr. Speaker, I think I got the gist of the Honourable Member's question. There will not be any price controls, but the ICT Authority will ensure, as I mentioned earlier, that there is no price-gouging or predatory pricing – that things are kept within competitive bounds. That will be the job of the ICT Authority.

The Speaker: I will allow a follow up. First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. I understand what the Minister has just said and I am trying to get it pinpointed—because perhaps it is difficult to deal with it at this level at this time. The Minister said that there will be no price control but that the Authority will ensure that there is no pricing-gouging on the one hand, or predatory pricing on the other hand. Now I am trying to determine what the Authority will be using as a *rule of thumb* to strike that balance to determine what is within and what levels will go beyond either way.

The Speaker: The Honourable Minister.

Hon. Linford A. Pierson: Mr. Speaker, the ICT Authority will be comprised of individuals who are experienced and knowledgeable in the telecommunication business. And they will have this necessary technical information available to guide them in deciding whether prices are too high or too low.

The Speaker: The First Elected Member for George Town.

Question No. 17

No. 17: Mr. D. Kurt Tibbetts to ask the Honourable Minister responsible for Agriculture, to give an update on the restructuring plans for the Farmer's Co-Op.

The Speaker: The Honourable Minister for Health Services, District Administration and Agriculture.

Hon. Gilbert A. McLean: Mr. Speaker, following on the recent approval by Finance Committee to restore Government's loan guarantee on behalf of the Farmer's Co-Op to its previous level of \$150,000, the Co-Op is now finalising arrangement with its bank to convert a portion of its current liabilities into long-term debt. This will make funds more readily available in

order to pay farmers on a more timely basis for goods supplied.

The Co-Op, with the assistance of the Ministry responsible for Agriculture, is also currently in negotiation with the Civil Aviation Authority for a long-term lease of property on which the Farmer's Market is located. Such a lease will put the Co-Op in a position to more easily access capital from commercial lending agencies, and will facilitate the further development of the site to take advantage of new business opportunities.

The Chairman of the Board of Management has already indicated that the Co-Op is prepared to move ahead with plans to construct a number of stalls on the Farmer's Market compound. These stalls will be leased to private individuals or groups for the sale of, for example, local handicrafts, home-made preserves and plants. Starting initially as a Friday/Saturday market, the long-term goal is to develop the Farmer's Market site into a truly National Market place and an attraction to residents and visitors alike.

The Speaker: The First Elected Member for George Town.

Supplementaries

Mr. D. Kurt Tibbetts: Can the Minister state what would be the current liabilities at present of the Farmer's Co-Op?

The Speaker: The Honourable Minister.

Hon. Gilbert A. McLean: Mr. Speaker, at this time I cannot state what the current liabilities are, but I think they are indeed high—since I had the opportunity to briefly look over a file related to this matter which was part of the Ministry for which the Honourable Member was responsible only recently. It is quite a large sum and it is a matter that was being dealt with then, in an attempt to have it resolved. And certainly I will be following up on it.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Just to quickly say to the Minister – and I will turn it into a question – that the reason I asked him that question is because the answer speaks to the loan guarantee on behalf of The Farmer's Co-Op, bringing it back up to its previous level of \$150,000. It is now finalising arrangements with its bank to convert a portion of its current liabilities into long-term debt. Point being that portion with whatever is available on the \$150,000 facility is not (unless something drastic has happened in a very short period of time) a significant portion of that liability.

So, understanding that that is the case and agreeing with what the Minister said, the question is . . .

. Even if this were to happen, it will really not make a significant amount of funds more readily available in order to pay the farmers on a more timely basis and this has been a very serious problem. Can the Minister say if there are any other significant plans which would allow for this to really be the case? Because, while I appreciate that he has just stepped in there, the Minister is answering the question based on the information that is being provided.

The truth is, one might really misinterpret the answer the way it is. It might be interpreted to say that the problem will be solved and it truly will not. So, I am asking if there is anything else the Minister might be aware of to deal with that situation?

The Speaker: The Honourable Minister.

Hon. Gilbert A. McLean: Mr. Speaker, to my knowledge there is no additional amount and I have seen where there was concern in the past about this situation. Truly it is something which has to be resolved whereby the entity of The Farmer's Co-Op will have to come in line with some sort of proper business practice. Only then could one realistically try to find a real solution. I have heard what the Member has said and in regard to the \$150,000 it is also my understanding that this will not necessarily go very far.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. I have known it to be a fact that previously The Farmer's Co-Op was losing significant sums of money on a monthly basis. Can the Minister state if there is information available that tells what the position is now with regards to its operational status? Is it still operating at a deficit? And if so, does he have any idea what that recurring amount is?

The Speaker: The Honourable Minister.

Hon. Gilbert A. McLean: Mr. Speaker, at this point in time I do not have available the information as to what is the deficit of The Farmer's Co-Op, but I could attempt to get such information and make it available to the Member.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you, Mr. Speaker. I will be very careful not to speak too long on this matter, but I consider it a very important one for a specific reason. I certainly trust that the Minister will not misinterpret my pointed questioning for anything else but trying to bring about awareness within this Legislative Assembly so that Members might have an appreciation. That we can all put our minds at it to try to assist because it is going to need that type of effort.

The plans that are outlined in the substantive answer regarding the stalls are good plans. I believe that the quicker they can get to that point, the better the chances are for The Farmer's Co-Op to operate the market without having to do so on a deficit basis.

While it is necessary to pay off some of the bills, using funds from this facility—which is being restored by Finance Committee to its original \$150,000 so that the farmers can become more current with the supplies that they bring—I am wondering whether or not the funds for the stalls project will also be used from this amount, or will it be done in another fashion with the stalls remaining as another pipe drain.

The Speaker: The Honourable Minister.

Hon. Gilbert A. McLean: Mr. Speaker, I could not accurately answer the Member as to how much of this money will be used to pay outstanding bills to farmers – which I understand there are some – and how far they propose to use some of those funds to build the stalls. I understand that the plans, which I have seen would require about \$15,000 to erect them. So, that not being such a substantial amount compared to the \$150,000, I am not sure where they really want to go in that regard.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Could the Minister give an undertaking to try to make that determination with a view to ensure that is the way it is handled; that they do have sufficient funds to see that project through rather than to be with it on paper and not being able to fund it in a short period of time.

The Speaker: Honourable Minister.

Hon. Gilbert A. McLean: Mr. Speaker, I am advised that the Co-op proposes to take \$15,000 out of that amount to do the stalls.

The Speaker: Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. I think we all know that The Farmer's Co-Op has been losing money for many years and we have tried everything possible with it, or thereabouts. In talking with many of the Members they recognise it but they believe they need to expand it as a business. I wonder if the Minister can tell us if any consideration to assist The Farmer's Co-Op with the opportunity to spread its wings will be given, for instance, to set up little juice stalls at the new Turtle Farm, the rotunda on the Dock and passenger landing, the Pedro St. James, et cetera. This would promote the Caymanian way of life and its products, because I believe tourists come to this country to see what we are as Caymanians.

The Speaker: The Honourable Minister.

Hon. Gilbert A. McLean: Mr. Speaker, consideration has been given to what the Honourable Member for East End said, and it is my understanding that that is the purpose these stalls, at least some of them, would serve to allow things like that to come together. That is why the decision has been taken that these are necessary. As I said in the substantive answer, it would become a truly national market place for attraction for residents and visitors alike. I think this is what the Honourable Member is thinking about from what he has said and that is one of the purposes that the stalls would serve.

The Speaker: Elected Member for East End continuing.

Mr. V. Arden McLean: Thank you, Mr. Speaker. I thank the Minister for that answer but in addition to those on site, as I understand the substantive answer, I was expanding it a little bit and wondering if consideration has been given to putting stalls, for instance, at the new Turtle Farm or at Pedro St. James, The Botanic Park, the rotunda on the Dock, and the new proposed tourist development dock, et cetera, and decentralising it so that tourists and residents alike can enjoy it.

The Speaker: The Honourable Minister.

Hon. Gilbert A. McLean: Mr. Speaker, since I have been assigned responsibility for this subject I have been told that a request was made by the Farmer's Market to do something like this, if I remember correctly, at the Dock. For some strange reason I understand that approval was not given. I gave an undertaking that I would speak with the proper authorities on this to find out why such a thing could not be, and to look into the possibilities of the Farm assisting in that regard for the promotion of the produce and juices the Member speaks about.

The Speaker: The Elected Member for North Side.

Ms. Edna M. Moyle: Thank you, Mr. Speaker. I wonder if the Honourable Minister could tell the House if a proper accounting system is now set up at the Farmer's Market.

The Speaker: The Honourable Minister.

Hon. Gilbert A. McLean: Mr. Speaker, I do not know how proper a system it is, but I am informed that there have been improvements in the accounting system there. And it is something that I will take a very keen interest in because I have seen a report from the Auditor General, for example, which has noted that it is very important, and I would certainly not recommend to Government nor to this Honourable House for continuing funds where there is no proper accounting system in place.

The Speaker: If there is no further supplementaries, at this time we will take the luncheon break and the House will resume at 2.30 pm.

Proceedings suspended at 12.47 pm

Proceedings resumed at 2.49 pm

[Madam Speaker in the Chair]

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received no notice of any statements for this Sitting.

GOVERNMENT BUSINESS

Debate on the Throne Speech delivered by His Excellency the Governor, Mr. Peter J. Smith, Friday, 15 February 2002

(Continuation of debate thereon)

The Speaker: The Honourable Second Elected Member for the district of George Town.

Point of Procedure Regarding Reply to Throne Speech

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, a point of procedure.

The Speaker: Certainly.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, during Friday I believe you indicated just before the Member of East End rose that if no other Member wished to speak you would call upon the Leader of Government Business to exercise his right of reply. I have done a bit of research on this matter and had some discussions with my colleagues and we would ask for a ruling on this point which I will shortly make. I think it is important for the benefit of all of us in this Honourable House that we understand this procedure.

As I understand it, there is no motion on the floor of this Honourable House. What transpired on Friday, 15 February 2002 was that His Excellency the Governor delivered the Throne Speech. The Leader of Government Business then rose and moved a motion for the House to record its grateful thanks to His Excellency the Governor for the address, and a further resolution that the debate on the address be deferred. As that particular motion was moved and voted upon, therefore, there is no motion currently on the floor of the House to which, in my respectful submission, the Leader of Government Business has any right to reply.

Obviously he can speak to the Motion in the same way as all other Members of this Honourable House, but I believe it is an important question which needs to be resolved because the right to reply is something that is given to the mover of a motion and the mover of the motion is necessarily the last person to speak. My submission is that in these circumstances the Leader of Government Business does not have a right to reply.

The Speaker: Thank you.

Honourable Member what I propose to do is to allow the Member for East End to continue his debate. He has about 15 minutes remaining, after which I will take a short suspension to give the matter some consideration and make my ruling immediately thereafter.

Member for East End, please continue. As I have indicated you have 15 minutes remaining.

Last Friday we had a point of order which I should wish if you would commence your debate and clarify that point so that I can make a ruling on that particular point, as I believe you wanted some time to search your places of abode to get verification of the statement of that which you sought to make during your last debate. So, if you would so continue.

Mr. V. Arden McLean: Thank you, Madam Speaker. I trust that the clarification will not be taken as part of my time. Is that my understanding?

The Speaker: That is correct. I have done the same for the Second Elected Member for George Town.

Mr. V. Arden McLean: Thank you, Madam Speaker. When we adjourned on Friday there was a point of order raised by the Second Elected Member for Cayman Brac on clarification, and I said that I would search my records to see if I found the statement. Unfortunately, I did not find the statement but I do recall that the Minister for Tourism did say at some stage during the previous year that there was a proposal to build a dock in East End. If it was not a statement (which I cannot confirm through a statement), as the Order Paper makes provisions for, I do believe then that it might have been during an answer to a substantive question or a supplementary. If the Second Elected Member for Cayman Brac chooses to confirm that then maybe we can clarify it from that position.

The Speaker: Honourable Member for the districts of Cayman Brac and Little Cayman.

Mr. Lyndon L. Martin: Madam Speaker, the Member for East End on Friday said there was a statement made in the Honourable House which would have been brought under Standing Order 30. There has been no statement provided by him, or in checking the records of the Legislative Assembly, no such statement could be found. I would then invite the Member

to withdraw that statement from his contribution to the Throne Speech, if that is pleasing to your ruling. Thank you.

The Speaker: Honourable Member for the district of East End. Do you wish to continue on this?

Mr. V. Arden McLean: Yes, Madam Speaker. Thank you. While I may have said that it was a statement made under the provisions made on the Order Paper for the Ministers of Government to make statements, that does not necessarily mean that a statement was not made. While it may not have been made under that provision, a particular statement was made in this Honourable House concerning a proposal to build a dock in East End. So much so that I recall the Minister saying that the Member for East End would be apprised of the situation. Madam Speaker, it was a statement by the Minister.

The Speaker: Honourable Member, my ruling would be as follows:

Because it is a statement of fact that has been contested, it is my view that the onus falls on your good self to supply evidence of the same. Opportunity has been given for you to do that and, unfortunately, for whatever reason, you have been unable to come up with factual evidence. In the circumstances I would ask you to withdraw that, but I should also bring to your attention Standing Order 31 which gives provision to you with the leave of the presiding officer to make a personal explanation if in the future you would find such evidence.

Mr. V. Arden McLean: Thank you, Madam Speaker. I will research and find it, be it through questions or otherwise.

The Speaker: And the withdrawal was another part of the request.

Mr. V. Arden McLean: Yes, Madam Speaker, for now I will.

The Speaker: Honourable Member, you should know me well enough that I will not accept a conditional withdrawal. It must be an absolute withdrawal and that is what I am expecting from any Member. If there is going to be a withdrawal it must be absolute, otherwise it does not constitute a withdrawal. So I would ask you to so do please.

Mr. V. Arden McLean: Thank you, Madam Speaker, and I do.

The Speaker: Thank you. Please continue with your debate.

Mr. V. Arden McLean: Madam Speaker, the Minister for Tourism looks like he wants to get your attention.

The Speaker: Are you saying that the Minister has a point of order?

Mr. V. Arden McLean: I do not know, Madam Speaker. He was saying something and I thought there was . . .

The Speaker: Honourable Member, under the Standing Orders he can only do so with your leave, if it is on a point of elucidation under Standing Order 34 (b) or under Standing Order 34 (a) if he has a point of order. And I have not had any formal application for either of those Standing Orders to be implemented. So please continue.

Mr. V. Arden McLean: Thank you, Madam Speaker. As I move on with the final piece of time allotted to me I would like to briefly touch on an area that brought some contention on Friday, and that was during my debate on the Constitutional Review. I understand that the Constitutional Review is yet to be completed but when I spoke of rumours that is what I meant—rumours on the street. Madam Speaker, the Minister for Tourism, during that time, alluded to taking me out before 2004.

Point of Order

Hon. W. McKeeva Bush: Madam Speaker, on a point of order.

The Speaker: Please state the point of order Honourable Leader.

Hon. W. McKeeva Bush: Madam Speaker, the Member is misleading the House. What I said when they raised this issue of a 5-year term—and I want to state for the record that the UDP has not made any such statement—we would not want to wait for the five years (extra year) 2005 to face him because I intend to take him out by 2004. That is when the election is . . . 2004. They cannot read anything else into that.

The Speaker: I take the point of order with the cognisance that it was just stated, and as it was previously stated and it is not my view or intention to do anything more than at a general election. Please continue.

Mr. V. Arden McLean: Thank you, Madam Speaker. Can I then read from the *Hansard* of this Honourable House of the 22 February 2002?

The Speaker: If it is relating back to the point that I just ruled on then I will not allow it as I have made my ruling. If it is a new aspect then you can continue on that basis.

Mr. V. Arden McLean: Thank you, Madam Speaker. It is related, therefore I cannot read it. I wanted to read what the Minister said on that particular day regarding the discussion we just had. Nevertheless I am here to

represent the people of East End and in the larger community of the Cayman Islands.

When I elected to run in politics no one pushed me; I did that all on my own. Madam Speaker, the people of East End chose me over two other candidates, and during my tenure, which is four years, I will represent the people of the district of East End and the greater Cayman Islands to the best of my ability. And at the end of the day it will be the people of East End who decide that I am not worthy and they will remove me; that will be left up to them. By the help of my good Lord I will be here until 2004. So when this country has to put up with the UDP until 2004, the UDP will have to understand that they have to put up with me until 2004: that is how it is going to stay. That is the arrangement that we all made with the people of this country and I am not going to change that. The people will change that. Regardless of the threats made against me, I am here to stay until I contest the next general elections in this country—my country—my district of East End.

Madam Speaker, I went on to *Caypolitics* this morning and I saw an article concerning the same matter and there were many replies to it.

Madam Speaker, I turn to the press. The responsibility of the press in this country or any country is to disseminate information. When we all elect to go into politics we do it knowing quite well that we want to be elected. Once elected, we must control our conduct: if we do not, it is the responsibility of the press to disseminate it. The press must also remember that it must practise responsible journalism. If the press makes a factual statement of what I have said, then I can blame no one for it. That is the situation, Madam Speaker.

In the last few minutes of my 15 minutes I would like to draw the attention to the delivery of the Throne Speech. While it was a longer speech than the previous year, I do not believe a lot of comfort was found in it by the people of this country. I do not know why the Chamber was not overcrowded again this year with people in anticipation of the Throne Speech, but it was very evident that something was wrong, because there were only a few residents in this Honourable Chamber. It was not very exciting. I understand that the Governor was a little under the weather, the flu I think. But the 'meat of the matter' in the Throne Speech did not give our people a lot to look forward to for the next year. We should have been addressing areas that the people are concerned about; specifically what we are going to do about the economy and carrying our people forward.

The UDP is responsible for the Throne Speech and it is their Throne Speech regardless of whether or not they try to get out of it by saying that the Governor delivered it. It is the policies of the UDP that the Governor delivered. It is the policy of the Government that the Governor delivered to the people of this country. And it was not and it did not have any future for our country. To say the very least, it was

bland. But the UDP must put this country on course. Let us see what direction they have for our country.

I know that other Members of the UDP will now be getting up to reply; I await their reply. I say to this country that there will always be an alternative to what we have and we are talking about 2004. I would just like to let the country know, that we the Opposition will be—for the rest of our term, the Government in waiting—defending our people and we will be delivering it in a respectful manner.

I thank you and I now sit and await other debates from the UDP, and certainly I subscribe to the old cliché: *'If you cannot take it, you should not give it'*.

Condolence

The Speaker: Thank you, Honourable Member from the district of East End. Before taking the break I should wish to inform all Honourable Members that I have just been told by the Honourable First Official Member that the mother of His Excellency the Governor who was ailing for some time has passed away in the United Kingdom at 7 p.m. yesterday. His Excellency has asked that all legislators be informed, and I am sure that all Honourable Members would wish for me, on behalf of this Honourable Parliament, to express our very deepest and sincerest sympathy to His Excellency the Governor and his family. May the God of comfort and peace be ever near to him during this time of great loss.

I shall now suspend for 15 minutes.

Proceedings suspended at 3.12 pm

Proceedings resumed at 4.03 pm

¹Speaker's Ruling on Point of Procedure regarding Reply to Throne Speech

The Speaker: Please be seated.

Members would recall that before we took the break I was asked by the Second Elected Member from the district of George Town to give a ruling on a submission that he had made. There is, in my respectful mind, no question that any Member may speak more than once, regardless of what view is taken as to whether or not there is a Motion before this Honourable House upon which the debate proceeds. Standing Order 33 would deal with this position, if there is no motion that seems to be reflected in the practice, otherwise the mover of the motion would have a right to reply. The issue, therefore, is not whether anyone may speak more than once; it is clear that any Member may only speak once. The issue, therefore, is whether it has been the consistent practice of this Honourable House which would allow for a representative of the Government to wind up the de-

bate on the Throne Speech. This cannot be said without further examination of the *Hansards*, which I propose over a ten-year period. It is, therefore, my intention, with the assistance of the Clerk of this Honourable House to further research the matter in order to enable me to make a much more informed ruling if appropriate.

Does any other Member wish to speak? Does any other Member wish to speak? Last call.

The Second Elected Member for the district of West Bay.

Mr. Rolston M. Anglin: Thank you, Madam Speaker. It is good to have you back in the Chamber. I know you are not feeling well but I will make sure that from now until the hour of interruption that I do nothing to cause you any more duress.

As we look forward to yet another year, we are indeed in the middle of a recession within our country, and as a Member of the Government Bench the arrow is clearly pointed to us to implement strategies, policies and programmes that the country would need to find its way out of the recession. But while all of that is going on there still is looming over us many other major challenges.

Not too long ago all of us were out on the campaign trail trying to convince persons to vote for us; to vote for change; to vote for a new and dynamic way in which the country will be led. Madam Speaker, I did not meet many persons out there who did not feel that the country on many fronts was not in the best position. People had complaints about the financial state of the country – health services, education, the international initiative, the state of the economy at the time, immigration, policing.

I think it is fair to say that most of us also campaigned by promising the people that we would make the tough decisions. That while we recognised and acknowledged that much work needed to go in to making these Cayman Islands our home a better place to live, a better place to do business, that we would make tough decisions that would ensure that the things that had been ignored were not addressed as thoroughly as we may have thought and the public may have thought necessary, that all those matters would be addressed.

Madam Speaker, the one thing that I think all of us do recognise and would agree on is that when we go along that train of thought, that is, that we are going to make the country a better place to live, a better place to raise our children, a better place to do business, that we would stand ready to make those tough decisions. However, we also know how things are.

First of all, there is never a solution that is going to please everyone on any issue. Today, the United Democratic Party Government could present a new policy on immigration. Not everyone will be pleased. In fact, it goes without saying that that is an issue that will certainly cause much public debate; that

¹ Also see *Speaker's Ruling on pages 135-137*

is an issue that will cause many in the society to feel that what is being done is not in the best interest, currently or in the long-term of the country. I used that as an example, Madam Speaker.

We can look at many other decisions that need to be made in this country and the one thing that we have managed to do quite successfully over the years is to push back major decisions. Somehow we seem to believe that unless everything is exactly the way we want it; unless everything is exactly within what we believe to be right that nothing should be done.

Madam Speaker, that feeling is out there in the larger community. So, when you sit here and hold office and the pressures come to bear, one can quickly see why when it comes to a lot of the fundamental issues that have faced this country for so many years now, there has not been any real attempt to do something different; to be bold; to be creative; to do the very things that you campaigned upon. There is always that fear among politicians, because they know that within the next few years – a few short months – you will be back to the polls, back to the campaign season facing those same people.

I recognise and I accept the position that I am in, that is, to be a Member of the ruling Party, the Party that has the majority and therefore has to make these tough decisions. The one thing that I can say is that we are not going to back down from our responsibilities because of the fear of going to the polls in 2004. We will do what we feel is in the best interest, long-term, for the people of these Islands. We want to leave behind a legacy of well thought-out decision-making. We want to ensure that there is in train a legacy of making decisions. As a government, once you have made that decision there are those who are going to be for and those who are against.

It is from that exercise and from those dynamics that we build. There is no right decision. Who is it right to? There are critical issues that face us as a community; critical issues which we must face, that we must start working on and the first step in that journey is to make a decision and take a stand. That is what the people sent us here to do and they have given us a four-year contract in which to do it. And four years is not a long time.

We must continue to foster in these Chambers, and in the broader community, a sense of logic, a sense of point counterpoint, a sense of tangible measurable outcomes. And all those can only be reached through the decision-making process. Madam Speaker, within these Chambers we will have a Government and an Opposition and one of the things that I believe, and the Government believes, is the whole notion of coming here and debating issues. However, within the realm of the reality of politics within the Cayman Islands, issues often get pushed aside and personalities come into play.

Madam Speaker, it is healthy to have Members of the Opposition get up and give logic to why

they disagree with the Government's position. It is healthy to have Members of the Opposition get up and give tangible alternatives to the Government's position because that makes all of us better. That makes the Government know that once they come to these Chambers with a decision that decision had better be well thought out, because we know the Opposition will make counterpoint—propose other ideology that somehow seems more preferable to the Government's.

I have listened to the debate so far and it is my humble submission that what we have continuing on within the Cayman Islands is that legacy of politics where it is personality based and not issue based. It is not presenting yourself as a real alternative because you have better ideas but it is presenting yourself as the Government-in-waiting simply based on personalities. *'I do not like him on the Government side because of x, y, z'* Personal things, usually. Not coming up with real alternatives to the country.

Madam Speaker, this is something that I have spoken of in this Honourable House before. I have said it in different ways. For example, we just came through an election in 2000, some fifteen months ago, and no one ran on an economic plan, no one ran on a real economic policy for the country.

So now that the economic growth of the 1990s is over, the economic growth that mirrored the economic success of the United States is over, we find ourselves once again in a situation that is not unlike some twelve years where the economy was down and development was relatively low. And so whereas in the 1990s you could get away from the fundamentals because things were booming, Cayman was 'boom town' and when there is a 'boom town' people tend to forget some of the other issues and problems because the money is circulating. Now we find ourselves in a situation where we have to try to help turn the country around. But we cannot do it alone, nor can we do it without money.

Government by nature is not business and so it is quite easy to say that Government should be run like a business. The United Democratic Party believes that in Government endeavours we should employ government principles to derive efficiencies to make the Civil Service as efficient as possible. But by definition Government cannot be a business. How can you say that policing is business? How can you say that our education system is going to be business? There are certain services that Government must provide and there is a cost attached to providing those services.

As we move through the next few months, Madam Speaker, it is going to be critical that along with the Government policies we continue to build and forge relationships with the private sector. Indeed it is through their spending, that jobs are created. Jobs put money in people's pockets and put bread on people's tables. It is spending that will allow us as a small Is-

land community to be able to get out of this economic recession.

Let us not kid ourselves: a lot is dependent on what happens to larger, more industrialised countries, which provide us with the investors into this Island. So, the very success of the United States to get out of the recession is going to go a long way in helping us here in the Cayman Islands.

When we look around at the current situation, not only are economic difficulties being faced by the country, but as I said earlier, there are numerous other matters that the Government is currently working on. For instance, the review of Immigration laws and the review of Immigration policies: we also have to deal with Education and how we are going to forge ahead in that regard. We also have to deal with the re-development of the Islands most popular tourism attraction, the Turtle Farm. We also have the reinvention of the Civil Service that is going on currently; we have to deal with the issue of housing; we also have to deal with the Civil Service review and the results of that and all intertwined in this is the impending report of the constitutional commissioners.

So, for a country that has traditionally been very conservative, where we as a people have always looked for the status quo to remain (because let us face the reality, we do not face change very well) we may not like our present position but as soon as change is recommended the outcry starts. We find ourselves in this peculiar quandary where the Island has grown by leaps and bounds; our population has gone through an 'artificial insemination' that is unlike most other countries; we have grown dramatically by the importation of labour; and we have the social issues that go along with that. Now we find ourselves in the situation where we must make the decisions and we must move ahead as a people.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

The Speaker: On behalf of Honourable Members, I wish to express to the Fourth Elected Member for West Bay a very Happy Birthday and also to the Honourable Deputy Leader who I understand celebrated his birthday yesterday.

Honourable Members, we have now reached the hour of interruption and I will call on the Leader of Government Business to move the appropriate adjournment.

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, I move the adjournment of this Honourable House until Wednesday, 27 February, 2002 at 10 am.

The Speaker: Thank you. The question is that this House do now adjourn until Wednesday, 27 February 2002 at 10 am.

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

Ayes.

The Speaker: The Ayes have it.

At 4.32 pm the House stood adjourned until Wednesday, 27 February 2002, at 10 am.

**OFFICIAL HANSARD REPORT
WEDNESDAY
27 FEBRUARY 2002
11.06 AM
Sixth Sitting**

The Speaker: I invite the First Elected Member for George Town to grace us with Prayers this morning.

PRAYERS

Mr. D. Kurt Tibbetts: Let us pray.

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

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

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

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

Proceedings Resumed at 11.09 am

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

Apologies

The Speaker: Please be seated. Proceedings are resumed.

I have received apologies for late attendance from the Second Elected Member for the District of Cayman Brac and Little Cayman due to the illness of his son.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**The Development and Planning (Amendment)
(Height of Buildings) Regulations 2002**

The Speaker: The Honourable Minister responsible for the Ministry of Planning, Communication, Works and Information Technology.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

I beg to lay on the Table of this Honourable House, The Development and Planning (Amendment) (Height of Buildings) Regulations 2002.

The Speaker: So ordered. Does the Honourable Member wish to speak thereto?

Hon. Linford A. Pierson: Madam Speaker, I will reserve my few remarks until Government Motion 1/02 is being laid on the Table.

The Speaker: Thank you, Honourable Minister.

**QUESTIONS TO HONOURABLE
MINISTERS AND OFFICIAL MEMBERS**

The Speaker: The Second Elected Member for the district of George Town.

Question No. 18

No. 18: Mr. Alden M. McLaughlin asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economics, As at 31 December 2001, how many of each of the following categories of licences were in existence –

Class "A" Banks and Trust Companies

Class "B" Banks and Trust Companies

Class "A" Insurance

Class "B" Insurance (unrestricted)

Class "B" Insurance (restricted); and

Since the increase in licensing fees provided for by the 2002 Budget, how many licences in each of the categories set out in (a) above have not been renewed?

The Speaker: Before calling on the Honourable Third Official Member, I will call on the Leader of Government Business to move the suspension of Standing Order as we have passed the hour of 11 o'clock.

Suspension of Standing Order 23(7) and (8)

Hon. W. McKeeva Bush: Madam Speaker, under Standing Order 78, I move for the suspension of Standing Order 23 (5) for questions to be taken after 11 am.

The Speaker: The question is that Standing Order 23(7) and (8) be suspended in order to allow question time to go beyond the hour of 11.00 am.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, the number of banking, trust and insurance licences in existence as at 31 December 2001 and 20 February 2002 are set out in a tabular form below and reads as follows:-

Type and Class of Licence	Total Number of Licences at 31 December 2001	Total Number of Licences at 20 February 2002
Bank and Trust		
Class "A"	31	31
Class "B" unrestricted	386	372
Class "B" restricted	10	9
Total Bank and Trust	427	412
Trusts-unrestricted	55	57
Trusts-restricted	63	64
Total Trust	118	121
Insurance		
Class "A"	30	30
Class "B" unrestricted	467	472
Class "B" restricted	76	72
Total Insurance	573	574

Madam Speaker, the number of Class "A" Bank and Trust licences has not changed since 31 December 2001.

Records maintained by the Monetary Authority indicate that 19 Class "B" Bank and Trust licences were cancelled during the period from 1 January to 20 February 2002. These cancellations can be attributed to the following reasons:

- Physical Presence Requirements (Private Banks) - 4 cancellations
- Mergers within the global banking industry - 13 cancellations.

- Cancellation of inactive entities - 2 for a total of 19 cancellations.

None of the cancellations were caused by increases in license fees. Whilst there have been some cancellations since 1 January 2002, new licences have also been granted: four (4) new Class "B" Bank and Trust licences were issued in the period 1 January to 20 February 2002.

In net terms, since the 31 December 2001 the number of Class "B" Bank and Trust licences has declined by 15 - that is, the 19 cancellations mentioned previously less the grant of 4 new licences.

There were no cancellations of Trust licences between 31 December 2001 and 20 February 2002. The number of Trust licences has increased by three (3), from 118 at 31 December 2001 to 121 at 20 February 2002.

The number of Class "A" Insurance licences has not changed since 31 December 2001.

In respect of Class "B" Insurance licences, four (4) Restricted licences and five (5) Unrestricted licences were cancelled; the cancellations can be attributed to the following reasons:

- Revocation - 2 cancellations
- Voluntary Liquidations - 7 cancellations

Whilst five (5) Class "B" Unrestricted Insurance licences were cancelled, 10 new ones were issued in the period 1 January to 20 February 2002.

In net terms, the number of Class "B" Unrestricted Insurance licences has increased by five (5) since 31 December 2001.

Madam Speaker, in conclusion I am pleased to report that, to 20 February 2002, no licences have actually been cancelled because of fee increases.

The Speaker: Thank you, Honourable Member. Are there any supplementaries? If there are no supplementaries, we will move on to the next question.

The Elected Member for East End.

Question No. 19

No. 19: Mr. V. Arden McLean asked the Minister responsible for Education what is the written policy/policies with respect to the award of the "Cayman Scholar" programme.

The Speaker: The Honourable Minister responsible for Education.

Hon. Roy Bodden: The award will be given once in every calendar year to an applicant who is under 20 years of age and who has graduated from a local high school and who is not currently attending university overseas. The recipient will be known as the Cayman Scholar. The decision of the Education Council is final.

Recipients must fulfil the basic qualifications and requirements to obtain a Government Scholarship.

In addition to academic qualifications as outlined, the following criteria will be taken into account: -

- A superior record in high school, as shown by both grades and scores on academic, aptitude and achievements tests;
- Participation in extra-curricular or community activities that shows evidence of a willingness to be active, involved and committed;
- Leadership ability or potential that has been demonstrated both within and outside the classroom;
- The energy and dedication to complete tasks; personal maturity that leads to self-discipline; and independence of intellect shown in the willingness to explore new ideas;
- The desire to accept, eagerly, new challenges and the drive to succeed in meeting those challenges.

The candidate will defend his/her application at the Education Council.

The award will cover all reasonable costs for up to five years of study, up to a maximum of CI\$25,000 per annum.

The chosen institution must be approved by the Education Council and must be ranked at least "highly competitive" or equivalent.

Upon completion of study, the recipient is required to work in the Cayman Islands for at least five years and the Government, or a local non-profit organisation, approved by the Council, has first option to his/her services.

The award will be presented at a special ceremony in keeping with the prestigious nature of this award.

The Speaker: Are there any supplementaries?

The Elected Member for East End.

Supplementaries

Mr. V. Arden McLean: Thank you, Madam Speaker. Can the Minister tell us why were three awards issued last year, and why were they not given in the previous three years?

The Speaker: The Honourable Minister of Education.

Hon. Roy Bodden: Madam Speaker . . .

The Speaker: Before so doing, in reflection you obviously can respond to the first part. The second part, in my view, is speculation, in that you have been Minister of a period lesser than the time required in the answer.

Hon. Roy Bodden: Madam Speaker, I can give an answer that I think should satisfy the inquisitiveness of the Member.

The Speaker: Certainly, please proceed.

Hon. Roy Bodden: Madam Speaker, it is my understanding that the Education Council undertook to re-

draft the guidelines governing the award of this prestigious scholarship. During that time there was a hiatus of two years when the award was not given because the new guidelines were not ready. That being the case, the Council took the decision so as not to deprive deserving students to make up by awarding the scholarships for 1999, 2000 and 2001, when the guidelines were ready. And the announcement was made so that those students who would have applied, had the normal practice been in place, were not deprived of their abilities to apply.

The Speaker: The Member from the district of East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I thank the Minister of that explanation. My next question is: In the substantive answer the Minister says that, "The award is given once in every calendar year and the applicant must be under the age of 20 who has graduated from a high school and who is not currently attending university overseas". Can the Minister tell us if the three applicants who were given the scholarship last year were attending university or were they high school graduates?

The Speaker: The Honourable Minister responsible for Education.

Hon. Roy Bodden: Madam Speaker, let me preface my answer by saying that the Council had revamped the guidelines, and it is now possible for a deserving student attending a university overseas to apply. Of those students who applied last year, one was a recent high school graduate, another was a recent graduate of the Community College, and the third was attending an institution abroad.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Can I ask the Minister if the revamped guidelines can be presented to this Honourable House?

The Speaker: The Honourable Minister responsible for Education.

Hon. Roy Bodden: Madam Speaker, it certainly is my intention to table the guidelines, not only for the Cayman Scholar Award, but also the new revamped guidelines for scholarships period. And I look forward to doing so in due course.

The Speaker: I will allow one more supplementary after this one. The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Can the Minister tell us when the application criteria were revamped?

The Speaker: The Honourable Minister of Education.

Hon. Roy Bodden: Madam Speaker, did I understand the Honourable Member as asking when were they revamped?

The Speaker: That was my understanding.

Hon. Roy Bodden: Madam Speaker, the Education Council went through great pains and took great strides to revamp this. I would say that from my experience, since I assumed the responsibility for the Ministry, about one year the Education Council took to revamp these guidelines. When the committee revamped the guidelines they were brought to the full Education Council for discussion, perusal, constructive criticism. I think we are well nigh on to that stage now where they are finalised and we can distribute them publicly subsequent to laying them on the Table of this Honourable House, and possibly taking them to the Executive Council for Ministers edification.

The Speaker: The Member for East End.

Mr. V. Arden McLean: Thank you. Madam Speaker, my understanding is that they [the guidelines] have not been completed. Not to say that I am against it, but could the Minister say whether or not the criteria given in the answer and laid on the Table was in place when the scholarships were issued? I am just trying to ascertain that.

The Speaker: Honourable Minister of Education.

Hon. Roy Bodden: Madam Speaker, either the Honourable Member does not understand the lingua franca that I am using, or he has a hearing problem. I said that the guidelines are in place and I also said that the new guidelines are almost ready for distribution. When I get them from the Secretary to the Council, I shall be glad to take them through the necessary procedures and lay them on the Table, hopefully, before this Sitting is over.

The Speaker: Madam Clerk.

The Speaker: The Elected Member for East End.

Question No. 20

(Deferred)

No. 20: Mr. V. Arden McLean asked the Minister responsible for Health Services, District Administration and Agriculture, if the Government has given approval to an overseas group called St. Matthew University to open an offshore tertiary facility in the Cayman Islands, and if so, what are the conditions under which it is given?

The Speaker: Honourable Minister responsible for Health Services.

Hon. Gilbert A. McLean: Madam Speaker, Question No. 20, as it deals with Education, is a matter that was referred to the Ministry of Education to the Honourable Minister and he would be responding to the question. I do not know if it is available at this time.

The Speaker: Honourable Minister of Education, would you have need for a deferral of the question?

Hon. Roy Bodden: Madam Speaker, I would appreciate if the House would grant me a deferral since we have received it from my colleague, the Minister of Health and I have been working on the answer but it was not ready to be tendered this morning.

The Speaker: Thank you. The question is that question No. 20, be deferred and set down for another Sitting. Would you please move it Honourable Minister?

Hon. Roy Bodden: Madam Speaker, I respectfully beg to move the Motion that the question which was seconded to the Ministry for which I have responsibility, from the Ministry of Health, be deferred until a later date.

The Speaker: Thank you. The question is that question No. 20 be deferred until a later Sitting.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Question No. 20 deferred to a later date.

The Speaker: The Elected Member for the district of East End.

Question No. 21

No. 21: Mr. V. Arden McLean asked the Honourable Minister responsible for Health Services, to give an update on the Nuclear Medical Unit at the George Town Hospital: Who are the principals of the contract/agreement; and what are the conditions of the contract/agreement.

The Speaker: The Honourable Minister responsible for Health Services.

Hon. Gilbert A. McLean: Madam Speaker, following the approval of the Executive Council, the Ministry of Health entered into a contract with Cayman Heart Institute Ltd on 7 May 2001 for the provision of a nuclear imaging service at the Cayman Islands Hospital, Grand Cayman.

Cayman Heart Institute Ltd is a local company formed by three cardiologists affiliated with Baptist Hospital. To the best of my knowledge, nuclear imaging services are not currently available on the Island.

The contract allows the Cayman Heart Institute to operate in the Hospital rent-free and with no charge for electricity and water. In return Government entitled patients will be seen at a preferential fee. Additionally, in relation to the first 25 patients who receive the service in each calendar month, 5 percent of the fees will be collected by the Health Services and in relation to every other patient, 15 percent of the fee will be collected.

Cayman Heart Institute will make their own payments on telephone bills and for the insurance of equipment against damage or loss.

The Speaker: Are there any supplementaries? If not, that concludes Question Time.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

Progress Made by the Select Committee of the Whole House on Revisions to the Health Insurance Law 1997 and the Health Insurance Regulations 1997

The Speaker: I have received notice of intention to make a statement from the Honourable Minister responsible for Health Services.

Hon. Gilbert A. McLean: Madam Speaker, thank you for allowing me this opportunity to update Members of this Honourable House on the progress being made with revisions to the Health Insurance Law 1997, and the Health Insurance Regulations 1997.

Members will recall that in June last year, I brought a Private Member's Motion requesting that a select committee of all the Members of the Legislative Assembly be set up to look at the problems being experienced with the workings of the Law and Regulations and to make recommendations for their revision. At that time the Honourable Linford Pierson was the Minister responsible for Health, and the former Speaker appointed him to chair the select committee.

Now it has come full circle and I am now the Minister responsible. Notwithstanding that fact, the Select Committee made significant progress under the former Chairman and drafting instructions were sent to Government's Legislative Drafting Department. I expect to bring a White Paper to the Legislative Assembly at the next meeting, which will be sometime in June this year, to invite further feedback on the proposed revisions to the Health Insurance Law and Revisions.

I thank the former Minister of Health for dealing so expeditiously with the Private Member's Motion and I commend him on the progress made by the se-

lect committee of the Legislative Assembly, which has been dealing with this matter.

Madam Speaker, at the time that I moved the Private Member's Motion I was not fully aware of the serious financial challenges facing the Government and the Health Services Department in particular. I realised that the fees charged on the Law by the Health Services Department needed to be increased as the gap between revenue and expenditure was too large. Should the fees have remained the same, the country would not be able in the very near future to afford the high quality of health care that we presently enjoy. I would like to draw the attention of Members of this Honourable House to the fact that the increase of fees in January 2002 was applied only to services that had not been increased since 1993

In addition, other services not previously charged for were introduced in the schedule at cost. Hence, there will be no further increase to those services at the next revision of the fee schedule. The focus of the second increase will be to adjust only fees that still need to be brought in line with the costs of providing the service.

Madam Speaker, there is clearly a close relationship between the fees charged by the Government's Health Services and the premiums charged by the approved providers of Health Insurance in the Cayman Islands. However, even without any health fees increases since 1993, there has been a steady climb in health insurance premiums since the Law mandating health insurance coverage came into effect in 1998. At a meeting with the Cayman Association of Health Insurance Providers in early April, I was told that a combination of factors influenced premium increases, and that the industry has recently experienced heavy losses. Of course, since then I have been receiving details of how the insured persons have been affected. In one case that I have seen, the premium has not been increased but the benefits have decreased. In another case I understand, the premiums have doubled.

Looking into the future, if the present situation persists, most persons in the Cayman Islands will not be able to afford health insurance. The high costs of premiums added to the demand by many health care providers for direct payment by the patient, who then has to wait for the health insurance to pay the claim, can severely restrict the disposable income of that person from month to month.

Due to this situation, I will be obtaining expert advice from one of the top accounting firms in these Islands, which will draw on its local and international experience to advise me more precisely on the relationship between health fees and health insurance premiums in the Cayman Islands. The firm will also be advising me on the other factors that may or may not impact health insurance premiums and the administration of health insurance claims.

The Government and people of these Islands must not be held hostage in this situation. Health fees

must be increased the second time this year to bring all fees in line with the cost of providing the services. However, I intend to be fully informed as to the impact of the increases on the providers of health insurance before these health fees increases are made. And I shall not leave the door open for health fees increases to create another opportunity for the providers of health insurance to further increase health insurance premiums. This may mean further revision to the Health Insurance Law and Regulations that were not already anticipated by the select committee of the Legislative Assembly on health insurance. Madam Speaker, it is my intention to keep the select committee fully informed with the facts on this.

I wish to end this statement by reminding Members of this Honourable House and their constituents that to pay a health insurance premium each month is an investment in every person's future. Just as many of us put aside funds weekly or monthly for our car and home, we should put aside for the day when we will need to spend huge amounts for traumatic injury and life threatening diseases such as cardiovascular diseases or cancer. This is where health insurance coverage is absolutely necessary. However, we must attain the position where as a rule the person pays his premiums, the health providers accept the insurance and the insurers pay the providers.

I know what we have at present is far from perfect, but it is painful to see the emotional distress in persons who do not have the means to pay when illness strikes without warning. I am committed, and so is the Government, to finding solutions to the present problems being experienced with health insurance because I believe it to be necessary for every person to have one, including those who are presently deemed to be uninsurable. Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Minister.

GOVERNMENT BUSINESS

Debate on the Throne Speech Delivered by His Excellency the Governor, Mr. Peter J. Smith, on Friday, 15 February 2002

(Continuation of debate thereon)

The Speaker: The Second Elected Member from the district of West Bay, continuing his debate on the Throne Speech.

Mr. Rolston M. Anglin: Thank you, Madam Speaker.

The Throne Speech as delivered by His Excellency The Governor, highlighted numerous points and numerous intentions that I believe are noteworthy and that I believe lends to the notion that there is indeed a lot to be excited about here in the Cayman Islands, despite the fact that we are still going through a recession in certain sectors of our economy, mainly

within the construction fields. There is a lot to be thankful for and there are a lot of matters that we should eagerly look forward to in the coming year.

Madam Speaker, it seems quite interesting that to date we have had three Members of the Opposition speak and yet there has not been a lot of debate on the points within the Throne Speech. There has not been a lot of debate on what they would do differently. The Member for East End said that they were the Government in waiting, but if that Member is a part of a Government in waiting I would have thought that he would have gone through the Throne Speech and he would have come up with his alternatives. Of course, the Member said that there was nothing in the Throne Speech to be excited about. Maybe it was because when the Member went through, he realised that he could not come up with anything better. Opposition for opposition sake is what this country no longer desires in representation because we have had a real belly full of that so far; opposition for opposition sake.

I would like to go through some of the highlights in this year's Throne Speech. There is going to be an establishment of a Drugs Court to provide the possibility to give some assistance to a problem that is crippling our community. We have so many talented people in this community strung out on drugs. We have so many young people coming through who are going down the wrong path, and that for me is an exciting development.

This year it is intended that the Monetary Authority will become fully independent, which is a key component to our regulatory regimen here in the Cayman Islands, and that will give us the credibility that we need; another step toward the credibility that we continue to build in the international financial arena. The financial services industry is critical to the future of this country, but I suppose that is nothing to be excited about.

Education is the bedrock of any society. There is a proposed new Education Law that is going to be disseminated to the public in April of this year. Maybe that is not cause for excitement for the Elected Member for East End. But it causes excitement for me because his constituents, just like mine, are all Caymanians and education is the key to the way forward for us as a community. Maybe the Government in waiting should have given us their alternative but they have none.

Over the next three years the Ministry of Education is going to promote and support school improvement and do some other important things, but the one that really catches my eye is, enhancing the provision of technical and vocational training, something that we desperately need in this country. We need to ensure that when our children come out of school they have a tangible skill to take to the workforce! Not simply coming out of a system that is primarily geared towards academics when in fact, most people do not go that way. That is a fact of life. But maybe that does not give any cause for excitement.

We (the Government) are excited. I am so excited I could not get the word out as to the notion of technical and vocational training. But maybe the Member for East End does not place an emphasis on this. He may not see it as important so it was not exciting.

We have before us the report of the *Committee of Inquiry into the Causes of Social Breakdown and Violence Among Youth in the Cayman Islands*. I was honoured to be a member of that committee. That committee was chaired by the Dr. the Honourable Frank McField, the new Minister responsible for Youth. I think it is highly appropriate that the person who was chosen to be the Chairman of that committee is now the Minister to see its implementation. If he was chosen to be the Chairman of such an important committee to do this critical research that provides a basis for the way forward in regards to our youth policy in this country, which naturally will dovetail into the education policy of the country.

Is it not poetic justice that he now is the Minister responsible for its implementation? However, according to the Opposition that is not anything to be excited about. That same Minister, the Honourable Frank McField, is forging ahead at promoting a self-help and skills development and staff is focusing on assisting the establishment of a learning centre in East End within the first quarter of this year. The Elected Member for East End said that it is not anything to be excited about. Maybe he should bring that up at his next public meeting; maybe he should tell his people what his alternative is since he is the Government in waiting.

Point of Order

Mr. V. Arden McLean: Madam Speaker, on a point of order.

The Speaker: Elected Member from the district of East End, please state your point of order.

Mr. V. Arden McLean: Thank you, Madam Speaker. I did not say that it was not exciting; I made it quite clear in this Honourable House in my debate that it was not the Government doing it, it was the members of the community and I was assisting them.

The Speaker: Second Elected Member for the district of West Bay, could you clarify what you just said? Are you referring to the general comment that there was nothing in the Throne Speech that was exciting or to a specific comment?

Mr. Rolston M. Anglin: Madam Speaker, I was referring to the comment made when the Member was ending his debate that there was nothing in the Throne Speech. He also went on to say that there was no one in the galleries because there was nothing exciting in the Throne Speech.

The Speaker: Thank you, Honourable Member.

It is my recollection that a general statement was made at the conclusion of having the debate and it would not be a point of order because of that all encompassing statement.

Please continue, Member for West Bay.

Mr. Rolston M. Anglin: Thank you, Madam Speaker. That same Member (the Elected Member for East End) is the one who gets up in this House and casts aspersions all the time. He is the one who is always talking about, 'Oh if you can give it, then you have to take it'. I can remember not too long ago he stood there talking as if he were threatening someone on the Government Bench. All I can say is, if you can criticize, then take criticism.

We have the possibility of liberalising telecommunications in this country. Nothing has held back this country from forging ahead as an international player in e-business and e-commerce, nothing more has held us back than the cost of telecom. This is a known fact. We also know that within our major industries here in the Cayman Islands, especially within the financial services industry, the cost of telecommunication services are incredible when you look at the cost it takes for offices to have the dedicated Bloomberg Information System lines, to have their dedicated lines on Reuters for those who need dedicated links to their home offices for accounting and record-keeping purposes. Telecommunications are an incredibly high cost within this Island. It is a critically high component of the expense structure of persons doing business within the Cayman Islands.

So, Madam Speaker, it gives me great excitement that there is at least the possibility that we will have liberalisation within this market. As we have seen in other countries, liberalisation, without a proper regulatory framework, often leads to oligarlistic practices whereby you go from one exclusive service provider to two or three and they themselves collude to fix prices. This is the reason the Government is taking the holistic approach and is coming forward with an information and communications technologies office that will allow us, through the Information and Communications Technology Authority, to be able to grapple with the challenges that liberalisation will post. It is not as simple as a lot of people think. Just because you do not have a monopoly anymore does not mean that a lot of the benefits such as pricing and better service will follow. If the new entrance into the marketplace simply do what the old player used to do we are no better off. So that is why the United Democratic Party Government is taking this approach. That gives me great cause for excitement. I think if we were to go and call the financial controllers and accountants in the major companies within this Island, they would all tell us how expensive telecoms are.

We see that there has been and there continues to be a restructuring within the Department of Tourism, US operations. There has been a down-

sizing of staff members from 50 to 35 persons. This is what the country wants. The country wants an effective and an efficient Government bureaucracy; they want one that is responsive to their needs; they want one that does not continue to drain the resources and the proportions that it currently does. That is also cause for excitement.

It is easy to get up on the Opposition side and talk about people and talk about personalities—but about the alternatives? If you are going to be the Government in waiting, there must be alternatives. It is easy to go along and say, *'Oh, no more development in the Cayman Islands. We do not need any more development in the Cayman Islands'*. It is easy to say, but as I am sure you are well aware, there is a very important thing here in Cayman called foreign exchange.

The foreign exchange of the Cayman Islands dollar to other currencies, especially the US dollar . . . the rate of exchange is critical right now. We have a strong dollar but what creates a strong dollar? Simply because it says Cayman Islands on it? Or is it because it is printed by the Monetary Authority of the Cayman Islands Government? No. Everything has supply and demand and the foreign exchange rate is the price of the Cayman Islands dollar. That is equivalent to what Foster's Food Fair would charge for a can of soda.

It is key that we recognise that the demand for the Cayman Islands dollar is driven predominantly by outside influences. There is a demand for Cayman and once there is a demand for Cayman there is a demand for the Cayman Islands dollar. When tourists come here and spend money, whether off the cruise ship or via air arrivals, that creates demand for the Cayman Islands dollar. When persons come here and seek to do developments such as building hotels, which create demand for the Cayman Islands dollar, that is what maintains our foreign exchange rate.

We have international firms within the financial services industry here. They are located here, they pay fees to the Cayman Islands Government. That creates demand for the Cayman Islands dollar. So when the United Democratic Party Government says that we are going to establish a Cayman Islands investment bureau and in conjunction with that a Cayman Islands growth management board, that is cause for excitement. The people of this country have cried out for years for sustainable growth and development and it is that same development that causes the demand for the Cayman Islands dollar that maintains the foreign exchange rate. We have a very interesting situation here within these Chambers. There seems to be an information vacuum on the Opposition side. I do not hear any of them talking about these important issues.

I can certainly tell the country that there are people here on the Government side who understand these issues and who have practiced in the fields of these issues; things like foreign exchange. Madam

Speaker, how do you maintain stability through a foreign exchange policy that is sound? Development is a key component and it is easy to get up and criticise every development that is coming through. However, you know what? It is not criticising the development because they are against the development; it is because they do not want to see the development under the watch of the United Democratic Party Government. How selfish! This is a benefit to the people of the Cayman Islands. It is important for all of our children and grandchildren to maintain the level of foreign exchange that we have in the Cayman Islands. It is a key component to the way forward but it is easy to get up and talk about these things if we truly understand them.

The United Democratic Party Government sees a lot to be excited about. Just a few short days ago we broke ground for the new Cayman Islands Turtle Farm. This Farm is the most popular tourist attraction on this Island under the leadership of the Minister responsible for Tourism and Leader of Government Business. We are taking the Farm and moving it across the road. It has sustained so much damage over the years either through hurricanes or bad northwesterers. This time they suffered great losses to the breeding herd. Did we simply put it back where it was? No, we have moved it across the street and if we have a northwester or hurricane that does significant damage to the Turtle Farm across the street, then we have a lot of other things to worry about here in Cayman. There is a lot to be excited about.

There has been so much talk about Cayman Airways over the decades. As a young man eleven years ago the first major audit that I went on as an assistant staff accountant was at Cayman Airways and I think it was on two other occasions. The national airline has and does provide economical benefit to this Island. The continuing debate has been: Do the benefits outweigh the costs? More importantly, could those same benefits be provided by another carrier?

The Leader of Government Business has made it quite clear that a mandate has been given in regard to the national airline. When we look at the last decade, from the bail out in 1991 of some CI\$16 million to the annual subsidy . . . but more important than that, to the amounts that have been given above and beyond the annual salary subsidy, we see that we do have an entity—that without the support of the Government—would indeed go bankrupt. The United Democratic Party Government does not make rash decisions and just change for changes sake. At the same time we are quite aware that the national airline must be scrutinised and monitored closely.

I think there is a lot to be excited about. Just this morning in this Honourable House the Honourable Third Official Member answered a question in regards to the numbers of Class "A" banks and trust companies, Class "B" banks and trust companies, Class "A" Insurance providers, Class "B" unrestricted and restricted insurance providers. Much has been said over

the last several weeks about the fees that form part of this year's budget, but there were many people who said that these fees were going to kill the financial services industry. There were many people who said that these fees were going to chase away all of our business.

I wonder what those people would say in regard to the international initiatives; to the independence of the Monetary Authority; to the need for more robust regulatory regime at the Monetary Authority. In other words, for the great need for the Monetary Authority to hire substantial amounts of staff over the next several years? There are significant costs that will go along with hiring the extra staff to bring the Monetary Authority up to a standard that will be internationally accepted. We do realise that we are going to staff up the Monetary Authority and the funding for that is not going to be an issue in the future. We on the Government side do recognise that it is of critical importance that the Cayman Islands Government which represents every citizen within these shores must be, in and of itself, a sustainable entity; it must be able to raise the funding required for it to operate.

There is much cause for excitement for the citizens of this country. We will forge ahead and the Government will continue to institute policies, once realised, that are going to bring about the type of economic activity that will allow us to stand here and say that we are no longer in a recession but our economy is expanding. I was speaking to an executive within tourism and he was remarking to me how surprised he was that we were bouncing back so quickly because there were so many 'nay sayers' out there painting doom and gloom pictures for tourism. There is much confidence in the Cayman Islands.

We know that Her Majesty's Government has said quite clearly on the White Paper, "Partnership for Progress and Prosperity", that her territories must continue to evolve and mature politically. This led His Excellency to appoint Constitutional Commissioners. I think the one thing that we can agree on here in these Chambers, irrespective of whether you are Government or Opposition, is that there is a dire need for our Constitution to be modernised.

There is also a dire need for us to continue to mature politically. We have seen within this small global village that we live in, that all the major Western contemporary societies have a well-structured system of politics. They have party politics in all the major countries. Much was said by the Second Elected Member for George Town about garrison politics and utilising certain examples within our Region, and talking about a tropical model. I have confidence in the people of the Cayman Islands. I am brimming with confidence that the people of the Cayman Islands have the ability to handle mature political structures. From my constituency, the district of West Bay, we have not had an independent win a seat in over two decades. We have had well organised politics within the district of West Bay for many years.

The people of West Bay have been educated that you do not send a broken ship to this Legislative Assembly and expect it to make a positive contribution. You send a united front, and I am confident that in the year 2004, they will send a United Democratic Party to these Honourable Chambers. It is important to note that the United Democratic Party has the confidence in the people of these Islands that we are not going to have garrison politics here. It is important for the people of the Cayman Islands to recognise that point. It is important for our citizens to recognise that they are the people who will decide how well we handle our new Constitution and the mature politics that go along with it. Her Majesty's Government has made it quite clear that we must have that as a way forward.

Madam Speaker, I was not going to sit back and watch events like November 2000 unfold continually in this territory. If we are going to talk about events that are destabilising, which cause concern, we have to look no further than November 2000. I am confident and the United Democratic Party is confident that the people of the Cayman Islands are more than ready to take up their positions in this world as being a mature democracy that fosters mature democratic principles.

In the 2000 election we had some 54 people run for 15 seats. We had some 22 in my constituency, run for seats. However, despite all that chaos, the people of West Bay still sent a Party to this Legislative Assembly because they recognised the need for persons who are like-minded to form the majority. I am certain that all our citizens recognise that need. When we look at the United Democratic Party . . . and what is a Party anyway? A Party is nothing more than a group of individuals who ascribe to certain broad principles in terms of governance. And that seems like a good thing to me. It seems like a good thing for people who believe in things that are similar to support and work along with one another. That is how societies are built. That is how the Cayman Islands have developed over the years.

What is our Christian heritage founded on? Groups of people who have similar beliefs. Why is it that generation after generation of certain families attend the same church? Because that is the denomination to which they ascribe in terms of their belief system. So, the Cayman Islands have practised a similar concept for many years.

When we look at the way in which the Party will conduct its affairs, you see a very sound set of rules, you see a very sound party Constitution. You do not just wake up one day and decide that you are going to be a candidate for the United Democratic Party; you must be nominated. If there are more persons nominated in a specific district who decides?

The people and the registered members of the Party vote and decide. There are a lot of people who have said for many years that they wish they had an input into who the candidates would be. We have all heard that. We have all heard people say, 'Well if I

had my way he would not have run. Mind you, in any democracy there will be rules by which any person can run, so any one will still be able to run but when you look at the people who are like-minded with new philosophies; when you look at the people who you support; when you look at the people with whom you identify and are members of a Party, will the people decide who the candidates will be? The people, the membership of the Party also decides on whom the leader of the Party is going to be.

Before the people go to the polls, they would have had an input into who their candidates would be. They would have chosen their deputy leader and leader of their Party who is empowering the people. There is no select group that decides these things anymore; it is the people who decide. It is high time for the people of the Cayman Islands to have this fundamental power at their disposal. It is high time for the people of the Cayman Islands to decide who the Leader of Government Business will be before they even go to the polls. It is high time that we move forward and progress politically within these Islands.

The people of this country will handle the changes. Change is never easy, most of us resist because a lot of people look at life and say, *'Well, I know what I have now, but if we change I do not know what I am going to have.'* But, it is all about education, it is all about learning, it is all about us growing and progressing together. It is all about politics being for the people! Not for certain people. It must be for all the people. How else could it be logical? Every single person must have that equal say before the polls and at the polls.

Within our Party we also have a young United Democratic Party because we see the importance of involving and hearing the voices of our young people. The person who is selected from among their peers to be the president of the young United Democratic Party sits on the general council of the Party. Young people's voices will be heard. We are paving the way and they are the ones marching on behind us. We cannot be so arrogant or so blind as to be looking forward and only thinking about ourselves and only thinking about today. We must be thinking about the generations that are coming behind. We must ensure that their voices are heard and heard loudly. In a nutshell that is what the Party system will give to the people of the Cayman Islands. That is certainly what the United Democratic Party will give to the people of the Cayman Islands.

We also see that we are going to have a hospitality training centre started that is going to provide the skill sets that are so critical in our service based economy. We are only as good as the service we provide whether it is in Tourism or our financial services for that matter but, within tourism we must get back to the basics and this training centre is going to provide that opportunity that is worth getting excited about.

There will always be opposition and there is nothing any government will do that is going to be

whole-heartedly accepted by all the people, and that is healthy. It is healthy for a government to know that whatever they come forward with needs to be rationalised because we know that there are critics out there. In spite of the critics, I want someone to show a reason why we should not have a hospitality training centre in these Islands. There are so many good jobs within the hospitality industry that our people do not take up.

When it comes to our jobs it is most important to enjoy what we are doing, but at the end of the day we all have responsibilities and we all have to pay our bills. How sad it is to see young people continually rejecting the hospitality industry to be clerks and tellers within the banks. In my humble submission, once a person is making an honest living he is making a positive contribution to his society. The Government is seeking to broaden the horizons and open the eyes of more of our young people through the education system and through the hospitality training centre to show them the opportunities to be explored.

In my past profession whenever I audited the credit departments of commercial banks one of the things you do is a random sample of a certain section of the loan portfolio, and you do a stratified sample of another section of the loan portfolio and naturally you go back to the base document, that is, the client file. I would often be surprised to know what it is that waiters and waitresses, for example, in the popular restaurants within this Island take home in a year. The great majority of them make substantially more than a teller in a bank. They make substantially more than low-level supervisors within banks and trust companies.

The Government is excited about trying to steer our young people toward the hospitality industry. There are so many opportunities there and I find that very exciting. I find it very exciting to be a young person here in this Parliament and to be a part of a government that sees the necessity and is also willing to act on that necessity—that is putting action plans forward, and coming up with ways of transforming the talk into action.

As we move forward as a community into this new age and this new relationship with the United Kingdom, it is very important for the people to clearly understand how Government works and what sorts of powers we do have and what we do not have. Mention was made of 'unrestrained power'. At the end of the day Her Majesty's Government appoints a Governor who is the President of our Executive Council. When the Governor enters the room we get up and bow to the symbol of Her Majesty's Government. He is Her Majesty's representative. So, to somehow try and say that there is 'unrestrained power' within these Chambers, in particular on the Government side within these Chambers, is stretching the truth shall we say.

If the Elect persons (15 of them) among themselves elect five Council men—five Members of

the Executive Council—five persons who will be the council men to the Governor, advisers if you would like, certainly the elected membership of the Executive Council does have real authority in terms of policy and procedure but it is a far cry from unrestrained power.

We have no control over the Civil Service. For example, the Governor makes it quite clear that the Civil Service is his area of responsibility. We still have three appointed Members of our Parliament. It is very important to always try to make sure that our people remember clearly how their own country works. And to just get up and make irresponsible comments saying that there is unrestrained power! when we look at our Chambers and we see a Government side and an Opposition side, we know that this is a House of politics that has its say. However, they have to understand that there is something called debate. Debate usually surrounds an issue. One side puts forward its point; the other side puts forward its point.

So when we have Members of the Opposition get up in regards to the Throne Speech and go out of their way to get off the point and to just get back to the personality politics and to just get back to attacking individuals, not issues, not policies, then they too must clearly understand that we on the Government side are not going to sit down and not defend themselves.

Much was said by the Second Elected Member for George Town and the Elected Member for East End about the dock. If I did not know any better I would believe that the Elected Member for East End never heard about any proposal about a dock in East End before very recent times. It has to be clearly understood that if other matters are going to be brought into the debate my job is to debate those matters as well. And so much was said about the Leader of Government Business and the Minister of Community Development! In fact, mention was made about the Minister of Community Development in regards to him having dialogue with Members of the Opposition. The last time I checked in here, we were Government and Opposition, but outside we are mere mortals. However, we will see that the Members of the Opposition approached those who have spoken so far, approached this Throne Speech debate and they came out attacking mainly personalities.

All the benefits that I have mentioned that are in the Throne Address, I did not hear a lot of people talking about those issues saying, 'Well I would not have done it this way, this is what I would do, showing the way forward, showing the country the alternatives.' Instead I heard things like Ezzard Miller; I heard mention made of Eddinton Powell; I heard wondering. So I think it is fair to say that we have a 'wondering' Opposition. Wandering aimlessly; hopelessly lost in the desert.

The Elected Member for East End was wondering who owns the land where the dock is being proposed. He was wondering in regards to something that is rather easy to find out. Any citizen can go to the

Land Registry and do a title search. However, the Elected Member for East End decided to come into the House wondering. Wondering!

A 'wondering' Opposition?

More appropriately, a 'wandering' Opposition.

This is a full-grown politician who seemingly does not have the time to do his research before he comes here. The last time I checked that is what the people of the Cayman Islands pay me to do. Not to come in here and wonder. Certainly the Second Elected Member for George Town wandered through his debate as well.

We were paid to come in here and give responsible representation. If there is an issue to debate, you come to your debate with points and facts, you do not come into these Chambers wondering. The people of East End did not send the Elected Member for East End here to wonder about publicly available things. They sent him here to do work, not to get up to criticize and criticize. Come and present the facts, present your case! It seems to me there was no case to be presented.

The Speaker: Honourable Member for the district of West Bay, is this an appropriate time to take the luncheon break? I should wish to take the luncheon break.

Mr. Rolston M. Anglin: Yes, Madam Speaker.

The Speaker: We will now suspend for the luncheon break until 2.30 pm.

Proceedings suspended at 12.47 pm

Proceedings resumed at 3.01 pm

The Speaker: Please be seated. Proceedings are resumed.

The Second Elected Member from the district of West Bay continuing. I should wish also to bring to your attention that you have 44 minutes remaining.

Mr. Rolston M. Anglin: Thank you.

Madam Speaker, before we broke for lunch I had gone through the Throne Speech and pointed out some items that I believe to be noteworthy; to be positive for the country. We are at a critical stage in the Cayman Islands. We are at a stage where much is expected of Government, the private sector, and also much is expected more widely of all of us.

We have developed politically and socially in a very unique way here in the Cayman Islands. Certainly when we look around we can see much tangible benefit. However, there is much work to be done. We have not had to face some of the stark realities of life here in the Cayman Islands and sometime some of those realities would be things like companies downsizing, restructuring their operations and having people displaced from their jobs. This is something that

happens on a fairly regular basis in most other countries. There are important social safety nets in place within those countries to assist their people at times like this.

We have been on an economic ascent for many years, in fact, it mirrored very closely the historic economic performance of the Clinton Administration in the United States. Now we are at a stage where companies are focusing a lot more on the fundamentals. Yes, they were making a profit before and business was booming. And this is not exclusive to Cayman, this happens all over the world when private sector companies are performing well financially, and then some market reality happens either within their specific industry, or within their specific country or some external factor. And once those events start to happen, the company begins to critique itself more vigorously than it had before, and inevitably, job lay-offs and redundancies.

During the boom, things were relatively good here in the Cayman Islands. A lot of the fundamental infrastructure that was necessary—for example a national database of employment—were never developed. So we find ourselves in quite a quandary. On the one hand we have thousands of persons in these Islands on work permits; on the other hand you have Caymanians being displaced from jobs. Many times the Caymanian has a skill set that they could take to another company and be able to replace someone who is here on work permit. However, when one speaks to the persons who are in Immigration, the system and the processes that the person has to go through are not quite so simple or seamless, and so it is important as we go forward, that those fundamentals start getting urgent attention.

I understand from the Department of Employment Services that this is exactly what they are embarking upon. They are embarking upon equipping themselves along with the Immigration Board with the information that would allow them ready access to employment statistics and to employment information. In other words, the vision is to have one main database of all persons living and employed here in the Cayman Islands. That is indeed a massive undertaking but one that is critical to the way forward.

The Government is committed to working along with the people in these Islands to try to make sure that during these critical times they are provided with a service that is flexible and able to assist. I will not go too much deeper into that because there is a Minister responsible, and certainly he will be able to enlighten us more on this particular topic. But it is one that is so important, that I needed to highlight and to assure the public that the Government is modernising and transforming Employment Services as quickly as possible, so as to be able to better serve the community as a whole.

We see a great need for the continued cooperation and sharing of information among the various departments within the Ministry of Social Ser-

vices. It is quite important for those various departments such as Social Services, the Department of Substance Abuse Services, the Department of Youth, the Department of Sports and indeed the Ministry to work closely to share relevant information! To move forward a lot of the systems that are there so as to ensure that the service being provided is one that is user-friendly and one that allows the Government to effectively and efficiently deliver critical services.

Especially in this time of economic slowdown, there are things that are coming on stream that are going to assist the country. However, during these times we know that there will be persons who need critical assistance and there is, as I said, currently a lot of work happening to ensure that people are assisted in comprehensive and an efficient manner.

We have before us a Throne Speech that we will utilise as a catalyst for the upcoming year. The Government continues to work diligently to provide sound investment opportunities within the Cayman Islands. We will work diligently in tandem with the private sector in this regard. There are those of us who take very important the duty that we have been elected to do, and during these critical times that we demonstrate the leadership that is so badly needed. A leader is one who knows the way, who shows the way and who goes the way and that is what the United Democratic Party is doing.

Madam Speaker, as you and all Members well know, it is quite easy to 'tee off' on the Government and simply criticise, but it is quite something else when it comes to arriving at alternatives that would be needed.

So when we look at what has been said to date:

- We see a clear indication that Government intends to formulate a Drugs Court.
- We see that Government supports, and that it is moving ahead carefully with ensuring the full independence of the Monetary Authority.
- We see clearly that the Government sees the need for reinventing education, the way it is delivered, the types of programmes that are delivered such as technical and vocational training.
- We see the need for continuous training and re-training of the teachers who deliver the services.
- We see the importance of moving forward with the negotiations with Cable and Wireless in regards to liberalizing the telecommunications marketplace.
- We see the importance for moving forward with the Mental Health Hospice and Geriatrics Services.
- We see the importance of performing the provision of health care. We see the great need for a growth management board, for an investment bureau to have that one stop shop for investors.
- We see the great need to have a brand Cayman going out into the marketplace that not only promotes tourism and investment locally, but also the provision of financial services in the Cayman Islands.

These are important things and the Vision 2008 document clearly outlined the people's desire to move along those lines. It is a great desire to see some form of growth management strategy for these Islands.

Even in times of natural disaster, such as Hurricane Michelle and the devastating effects it had on the Turtle Farm, we see now the possibility for a new Turtle Farm—a refined and revitalised product in the Tourism marketplace. We see the need to work as much as possible with our people and with the private sector to provide some relief in regards to housing, because much of our social problems can be tied directly to the lack of proper housing here in these Islands.

We see that Her Majesty's Government is very serious about her relationship with her territories and so she is moving forward to modernise the very systems that we utilize to govern ourselves, of course, the fundamental system being our Constitution.

As is not unusual in life, there is much change. Change creates opportunity for a new legacy to be built, for a new legacy to be written, and that is, indeed, a perfect platform to be utilised to move ourselves forward politically.

It has been said by the Second Elected Member for George Town that we form the United Democratic Party in the middle of a term. Certainly, political parties were going to be inevitable within this country, and certainly I believe, and so do the Members of the United Democratic Party, that it is very important to do things in a manner that allows people of these Islands to grow, to build their knowledge base, and to become educated in the changes that are happening.

I, personally, could not see us going into the year 2004 expecting that we would, at that point, all of a sudden say, *'Yep, we are going to have party politics in the Cayman Islands'*. Madam Speaker, those who scaremonger and do it well would have had a field day. Because no matter how much we talk, the people of these Islands want to see performance. They want to see things work. And so it is very important for our people to see how party politics work and see it work well; to see that from it flows benefits and that from it flows discipline from within the ranks of their elected representatives.

The United Democratic Party meets weekly to caucus—to discuss important issues, to put issues to a vote, to thrash them out, to decide whether or not we need further information and whether or not we need to call persons in to provide information. Information is king and certainly the United Democratic Party does not believe that we have any monopoly on information or knowledge. There is a lot of information and knowledge out there that a government must take into consideration when it is making its decisions to move forward. The people of this country, who become members of the United Democratic Party, have the opportunity and the possibility to have their say on a continual basis.

Each district is going to have a district committee. That district committee is going to have a district chairman, that district chairman will sit on the general council of the Party which formulates party policy. It is mandated in the Constitution that that district chairman must convene monthly meetings with his executive committee and quarterly meetings with his entire general membership, at which time he will take advice and seek information from the general public. People will have their input and it will flow up.

The Party Constitution brings discipline, it brings accountability, and it brings us closer to people. There are no longer loose alliances so there would be those who would resist it still because there are still many in this country that preys on opportunity; that preys on there not being accountability or structure; who prey on not having to be answerable to the public on a continual basis. Well, if there is anything that proves one of commitment to accountability, it is going through the exercise of sitting down and listening to the people. We have to sit down and have dialogue with the people. There is a formalised structure for doing it called a party constitution.

Those who share common philosophies there must be a formal way in which you have a connection to your elected representatives. However, as is the case in every other country that has party politics, party members still have the responsibility to govern and provide governance to their entire country. Once an election is over you go back to being primarily the representative of all the people, and of course you still continue to meet with your party. For all the people you represent—and when you are in your MLA office you represent everyone — that point drives to the core of the existence of the members of the United Democratic Party.

Over the next few minutes I would like to clearly demonstrate through recent history what is in fact at play within these Chambers. I welcome debate and I have always been a person who loves to sit down with my friends and colleagues and discuss issues. I suppose it became natural then that I would have an inclination toward politics and so when the Opposition gets up and gives us legitimate matters that challenge the position—our position—that is when we as a Government have to rise to the occasion and debate our position.

However, we have seen over the last couple of days that that is not the modus operandi of the Opposition. The Opposition is much more interested in talking about the Leader of Government Business and the Leader of the United Democratic Party: not their policies. They are much more interested in coming into this Honourable House and throwing aspersions and innuendoes.

In my view, we have had an unfortunate situation where the Elected Member for East End came into these Honourable Chambers and wondered who owns the land where the dock is going. As I said before the luncheon break, the Opposition seems to be

'wandering'. They seem to not have any clear direction and so that too makes life difficult on the Government Bench because we . . .

The Speaker: Is that your opinion, Honourable Member?

Mr. Rolston M. Anglin: That is my opinion, Madam Speaker.

We on the Government Bench, as usual, provide responsible representation. We do not come here and cast aspersions and innuendoes. We do not come here and talk about, '*I wonder who the land is for*' but we are here to defend ourselves. I have a name and I will defend my name. I will defend the Party.

I wish to lay on the Table of this Honourable House what my research has unearthed in regard to the ownership of this property. It is very unfortunate that the Elected Member for East End could not take the five minutes to go over to the Land Registry and the Company Registry to see the same documentation that I have seen. This is all public information.

Point of Order

Mr. V. Arden McLean: On a point of order, Madam Speaker.

The Speaker: Please state your point of order.

Mr. V. Arden McLean: Madam Speaker, the Member is misleading the House because he does not know whether or not I went over to the Lands and Survey Department. He keeps saying that I 'wondered' as to who it was for, and that is not so. The records will bear out that I wondered if the UDP was going to let the public know. I know.

The Speaker: Honourable Member from the District of East End, Is that an implied request for us to look at the *Hansard* or do you have a copy there with you?

Mr. V. Arden McLean: I do not have a copy with me, Madam Speaker.

The Speaker: All right, perhaps it is time for us to suspend to look at the *Hansard*. I should also wish to indicate that when the House reconvenes the Deputy Speaker will be sitting in the Chair as I have a very important public meeting to conduct in my constituency tonight. We will suspend now for approximately five minutes.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker.

The Speaker: Yes, Honourable Member?

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I wonder, respectfully, if you could let us know when we

might have a ruling in relation to the point I raised on Friday as to whether or not the Leader of Government Business has a right of reply to the Throne Speech? I believe it is an important question in the context of what is transpiring.

The Speaker: Honourable Second Elected Member for the district of George Town, I am almost on the final stages of my report and it is my expectation that time permitting between now and the end of the business day tomorrow, that I should be in a position to so deliver, if appropriate.

Proceedings suspended at 3.38 pm

Proceedings resumed at 4.07 pm

[Deputy Speaker in the Chair]

The Speaker: Proceedings are resumed.

Before I call on the Second Elected Member for George Town to continue his contribution to the Throne Speech, I refer to the point of order that was raised prior to the break,

In the interest of transparency I would prefer that we leave the ruling, if necessary, for the return of the Speaker so that there is no perceived conflict of interest, since the Second Elected Member was the Member debating. Therefore, I ask the Second Elected Member to continue his debate and stay away from that point as much as possible.

Second Elected Member for West Bay continuing.

Mr. Rolston M. Anglin: Thank you, Mr. Speaker.

This is the final point that I will make during my second debate on the Throne Speech. It goes back to the whole issue of the need and desire to have properly organised party politics within these Islands.

I do not personally believe that we need to go any further than our recent history to realise why it is so important to have ourselves properly organized. The very political system and the very politicians themselves are transparent.

In the November 2000 elections, I ran on a team in West Bay that comprised of four individuals. We were not formally associated with any other group in the Island, thus we could not form a Government. We were the largest group to run collectively (the four individuals who ran together in West Bay) and the people elected us primarily on the fact that they knew the need to have people who had a common manifesto; who had a common vision; who were going to work together for the best interest of themselves, their children and grandchildren.

In the November 2000 election, we had, as I said, this real fractured approach to governance going into the elections in that state. How could anyone reasonably expect that we would have a smooth transi-

tion and a smooth working Government after that? You must have people out there telling the people that we are together. Here is our vision, vote for our vision. Taking politics away from this personal nature and taking it to a new level which all the people in the Cayman Islands deserve; a level that is about issues, vision, voting for a vision, voting for collective parties that have a well defined structure in place as to how they are going to bring that vision to fruition.

It has been said many times in this Honourable House, but I will say it one last time because it is very important that I remind everyone of one of the primary reasons why I support organised party politics. Other countries such as the United States, the United Kingdom, Canada, Bermuda and Barbados have organised politics where there is transparency. There are no deals cut here and there that the public do not know about. The public must know. The public deserves to know. They deserve to know who they will be working with and who they will be supporting. You must be together.

As we well know, there was an informal government formed and signatures taken that involved three persons: the First Elected Member for Cayman Brac and Little Cayman; the Second Elected Member for Bodden Town and the Third Elected Member for George Town who did not wind up on the Government at that time. We cannot have a situation as we did in November 2000.

The people of this country deserve better. We must have transparency in our political dealings. I cannot be going to Bodden Town and cutting a deal with one guy, cutting a deal with his opponents, trying to hedge my bets because I want to make sure that whoever wins I will be able to put something together. Our people deserve better than that and our people are ready to take on this relatively new development.

There were parties in the 1950s, the Christian Democratic Party and one called the People's National Party, or something—the National Democratic Party and the Christian Democratic Party. There was not the constitutional basis to support such a move and it fell by the wayside. Here we are some 50 years later and yet we are still talking about the timing. We need to be organised; the people need to be told the truth when they are going to the polls. They need to know who you support. You cannot be with everybody because everybody has different opinions. You must be with people who you are philosophically on the same page with: people who you can work with and move forward with.

We, the people of these Islands, will move forward. We, the people of these Islands, together, will create the legacy that is worthwhile passing on.

I thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak? This is the last call. Does any other Member wish to speak?

The Honourable Minister of Education.

Hon. Roy Bodden: Mr. Speaker, it would be most impolitic of me if I would allow the opportunity to pass without saying some important things which I believe will serve to inform and enlighten Honourable Members.

My contribution will be in two parts: firstly I would like to address some specific issues raised by other Members dealing with current political events and the evolution of party politics. During the second part of my debate I want to focus more keenly on developments within the Ministry for which I have been assigned constitutional responsibility.

I suppose it is accurate to remark that ever since the United Kingdom forwarded the document called Partnership for Progress (the White Paper which purports to outline the new relationship between the United Kingdom and the Dependent Territories) winds of change have been blowing in the dependent territories, and more particularly the Cayman Islands which is that territory to which I will confine my remarks.

In that document the United Kingdom put forward several suggestions for a more modern, more scientific and a more equitable type of partnership. In reading between the lines one could quite accurately come to the conclusion that one of the things that the United Kingdom wanted to encourage was government by a modern instrument, meaning that the United Kingdom encouraged the development of a modern constitution. Indeed, we have been told as much by dignitaries visiting the Cayman Islands from time to time and most recently. I remember dealing with a Mr. Alan Hoole and Jillian Dare who discussed with us some of the ramifications of this, and there were others as well. Emanating out of that was, among the informed, a mood change.

A change from the normally staid conservative and reserved to a more open and acceptable mood and discussion of the possibility of constitutional change, leading to constitutional advancement, meaning the possibility of a Chief Minister. We were well on the way towards a ministerial system and that is only reasonable that you have a Chief: someone to whom responsibility is trusted, someone who can accept responsibility for leadership, someone who is at fault when things are not going right and someone who has authority over his Ministers rather than having five people of the same parity with no specific defined authority to be responsible for keeping them in line.

As events transpired on the election of 2000, it was most unsatisfactory according to the opinions of many people, the way the Government was chosen. There were those 'prognosticators' who saw fit to think that it was an alliance, which for one reason or the other, would not last for very long. I heard someone remark the other day that they made a prediction that it would last but one year, if it did that. I am not saying that those 'prognosticators' were accurate; I am not saying that they were of the stature of the late 'Jimmy the Greek'; I am not saying that we should take advice

from them prior to departing on some junket to Las Vegas, if that is the disposition.

What I am saying is that clearly it was an unsatisfactory way in the opinions of many people and time later bore that out. Though it is no one's fault, it just tells us that the time was ripe to have a more sophisticated, a more predictable and accepted way of choosing our government. No longer can we go on in the ad hoc way of building alliances, hedging bets—what I call, pirate politics—friend one minute with someone and at the next minute foe to them. That is clearly not good enough and the Westminster style politics and government is not predicated upon that and in all of its myriad variations, no Westminster style politics has that as its model.

The Westminster style is clearly defined in all its modifications and all its permutations. It calls for two clearly demarcated and divided bodies. I said this before in this House: the Opposition in the United Kingdom terms itself, Her Majesty's Loyal Opposition which means that they respect the Crown and all the nuances and accept the Government, while at the same time holding the Government to account and seeking an opportunity to legitimately and constitutionally replace the Government. That is the essence of Westminster style party politics.

So for anyone to convey the impression that what happened on the 8 November was evil and committed by ogres or some wicked people, is a travesty of justice and far from the truth, and it is gross irresponsibility.

The United Kingdom would not stand for any abuse of power in that regard—has never and will never. Even in countries that attained independence and are straying from the Westminster model, the United Kingdom can be rather heavy-handed.

I just heard on the BBC news that they threatened to impose Commonwealth sanctions on Zimbabwe because President Mugabe chooses to depart from the well-trod system. How much more would the United Kingdom let one of its dependent territories participate in something, which was un-parliamentary and foreign to the Westminster?

So, it has to be cast in the proper perspective. What happened was a natural follow up of dissatisfaction and the Westminster system makes ample provision for that. It happens in the mother of parliaments. It happened in the United Kingdom and there was nothing illegal or unconstitutional about that. What a lot of people are riled up against, is because they perceived, lost their advantage because, persons who came into the Government, were not persons whom for one reason or another they had befriended or maybe could even control or influence to the extent that they would. While it is true that the public did not have any say in it, to that extent, the public did not know before hand who (up to the time of the General Elections of 2000) the Ministers were going to be because there was no party platform.

What happened is a blessing in disguise because it has suddenly brought us to the realisation that it can no longer be politics as usual. We have come to that point of political maturity in the country where certain elements are ready for a full-fledged party system. Mr. Speaker, that is not foreign to me. I have always been an organisation man. I have always been a party man, I was one of the founding members of Team Cayman, the closest thing we have come to in the recent past to a full-fledged political party.

If those people who are opposing wished to be responsible they should galvanise themselves into a competing organisation to ensure that the proper balance is maintained. Because, Mr. Speaker, there is no way that an agglomeration of individuals is going to get the same political respect as a full-fledged, well-organised, political party. Good heavens! From earlier on in my political experience when the so-called Back Benchers went to the United Kingdom there were seven of us. I remember Mr. Walter Wallace, the constitutional advisor to the FCO, telling us at that time, *'You gentlemen, your cause would be better served if you formed yourselves into a Party, because the United Kingdom likes to deal with entities. As it is there are seven of you now, but you are nothing better than an agglomeration of individuals bound together by a common interest which may not exist tomorrow'*.

Party politics, whether we like it or not, seems to be here to stay and it is gross irresponsibility for any one on the Opposition or in any other organisation to get up and talk about party politics *leads down the road to destruction and garrison constituencies, and garrison this and garrison that*. If we are responsible legislators . . .

Point of Order

Mr. Alden M. McLaughlin, Jr.: Mr. Speaker, on a point of order.

The Speaker: May I hear your point of order?

Mr. Alden M. McLaughlin, Jr.: Mr. Speaker, I never suggested any such thing. The Minister was not present and he clearly has not taken the time to read the transcript of the Hansard because I never said that. He is misleading the House and the country, Sir.

The Speaker: Honourable Member, I was listening quite carefully and I did not hear him refer to you having said anything. I heard him make reference to groups and other Members but I did not hear him make specific reference to you, nor the statement that was made.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. He said "Opposition" and the only Opposition Member who spoke in relation to party politics was me, Sir.

The Speaker: Honourable Member, when I was in this House, not as a Speaker but as a Member, I heard two other Members of the Opposition speak as well and they both mentioned parties. I feel that it is not a point of order.

Could the Member continue?

[Pause]

Hon. Roy Boddén: I would gladly go on, Sir, but it seems to be the hour of interruption.

The Speaker: It is, Honourable Minister. I wonder if I can have the Leader of Government Business move the motion for the adjournment, please.

ADJOURNMENT

Hon. W. McKeever Bush: Mr. Speaker, I move the adjournment of this Honourable House until tomorrow morning, Thursday, being the 28 February at 10 am. Thank you.

The Speaker: The question is that this House do now adjourn until Thursday 28 February 2002 at 10 am.

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

Ayes.

The Speaker: The Ayes have it.

At 4.31 pm the House stood adjourned until Thursday, 28 February 2002, at 10 am.

OFFICIAL HANSARD REPORT
THURSDAY
28 FEBRUARY 2002
10.37 AM
Seventh Sitting

The Speaker: I shall invite the Honourable Minister responsible for Education to grace us with Prayers.

PRAYERS

Hon. Roy Bodden: Let us pray.

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

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

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

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

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

Proceedings resumed at 10.40 am

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

The Speaker: Please be seated. Proceedings are resumed. Although it is not appearing on the Order Paper due to extreme late notice, we will have the

Administration of Oath by the Honourable Temporary First Official Member. I invite him to come to the desk at this time.

Oath of Allegiance

(Hon. Donovan W. F. Ebanks)

Hon. Donovan W. F. Ebanks: I, Donovan Ebanks, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law so help me God.

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

The Speaker: Honourable Temporary First Official Member, once again I wish to welcome you back to these Chambers and as always it is good to have you here with us.

**QUESTIONS TO HONOURABLE
MINISTERS AND OFFICIAL MEMBERS**

Question No. 11

Deferred Friday 22 February 2002

The Speaker: The Second Elected Member for the district of George Town.

No. 11: Mr. Alden M. McLaughlin asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture:

- (a) What is the current number of students at the George Hicks School;
- (b) What is the average number of students per class at the George Hicks School;
- (c) How many students are expected to enter Year 7 of the George Hicks High School in September 2002; and
- (d) Is there sufficient space and staff at the George Hicks High School to accommodate the student intake in September 2002 and, if not, what plans are there to cater to the increase in student numbers.

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

Hon. Roy Bodden: (a) The current number of students enrolled at the George Hicks High School is 864; (b) The average number of students per class is:
Year 7 –20
Year 9 –18
Year 8 –17

(c) Based on the current enrolment in year 6 in the Grand Cayman Government Primary Schools, 335 students are expected to enter Year 7 of the George Hicks High School in September 2002. Some additional 45 students may seek to transfer from private schools. This would bring the projected enrolment to 380.

(d) Currently there is an average of 20 students to each class in Year 7. In order to accommodate the projected intake of 380 students within the current structure of 16 sets and within the existing facilities, the average class (set) size would have to be increased to 24. There are plans to seek provision for some additional eight (8) classrooms in order to provide additional space if it becomes necessary in September.

Supplementaries

The Speaker: The Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. In relation to the answer to part (d) of the question, the Honourable Minister has said the average class size would have to be increased to 24. May I ask the Honourable Minister whether that means that the average class size will be increased to 24?

The Speaker: The Honourable Minister responsible for Education.

Hon. Roy Bodden: No, Madam Speaker. At this point I cannot be definitive because, as I said in part (c) of the question it hinges on at least one other contingency.

The Speaker: Are there any other supplementaries?
The Second Elected Member for George Town. I will allow one more supplementary.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. The (d) part of the answer also indicates that there are plans to seek provision for some additional eight (8) class rooms in order to provide additional space if it becomes necessary in September. May I ask the Honourable Minister what provision is being made for these additional eight classrooms? Where is the funding to come from and where will the eight classrooms be located? Is it the intention to construct these additional classrooms on the site at George Hicks between now and September?

The Speaker: Honourable Minister of Education.

Hon. Roy Bodden: Madam Speaker, the Ministry and the Department being proactive, we have already begun to check out the feasibility of establishing temporary classrooms. So in the event that the enrolment

meets what we would consider our worst case scenario we will be accommodating and there should be no crises because the additional enrolment will be accommodated in temporary classrooms.

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, may I ask the Honourable Minister where are these temporary classrooms going to be and how are they are going to be provided? Are they going to put up temporary structures or are they going to rent accommodation somewhere else?

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

Hon. Roy Bodden: Madam Speaker, it is my information that on the George Hicks site, foundations are already in place for temporary classrooms. So we are not panicking at this point because according to our feasibility studies we can use these foundations to set up the temporary classrooms with no major disruption between now and September if they are needed.

The Speaker: Madam Clerk.

Question No. 12

Deferred Friday 22 February 2002

The Speaker: The Second Elected Member for the district of George Town.

No. 12: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for Education, Human Resources and Culture: (a) If Government still intends to restructure the John Gray High School and the George Hicks High School as parallel high schools both catering to years 7 to 12 as previously announced by the Honourable Minister of Education in July 2001; and (b) If the answer to (a) above is yes, when will this transition begin and what plans are there to cope with the additional staff and accommodation requirements?

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: (a) Government is still considering the feasibility of restructuring secondary education and is looking at all possible alternatives. Discussions are continuing to this end, including discussions with a consultant specialising in educational alternatives for small States. This is in keeping with the Ministry's priorities over the next three years, in particular school improvement and technical and vocational education. If restructuring is to take place, it will afford the Ministry the opportunity to assess the present curricula at both schools, and to propose a curriculum for the third high school, which is in the planning stages. Closer

links with the Community College, as the provider of post-secondary education, and the avoidance of duplication of the curricula must also be worked out.

(b) Before a definite decision can be made and provision for staff and accommodation worked out, data must be collected and analysed. Some data has been collected and this is being used in discussions. However, the main issues under discussion are as follows -

- ◆ The curricula of the two schools
- ◆ Audit of all staff, teaching and non-teaching and their qualifications and experience
- ◆ Assessment of buildings and resources in both schools
- ◆ Provision for students with special education needs
- ◆ Analysis of number of students leaving school with certification, that is, drop-out rate

Once internal consultations have been completed, the Ministry is committed to the restructuring being presented for public consultation and feedback.

Supplementaries

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I wonder if the Honourable Minister could provide any sort of time frame or estimated completion date for this study that is currently underway.

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: No, Madam Speaker, I regret that I am unable to offer the Honourable House at this time a definitive completion date, the reason being that this is a process which we have determined to hasten slowly because we have to take a significant number of factors into consideration. Once we have advanced beyond a certain point we recognise that the process will become irreversible and therefore it is incumbent upon us to get all our 'ducks' lined up properly in the first instance.

The Speaker: The Elected Member for North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. I wonder if the Honourable Minister could tell the House where the Government is proposing to put the third high school which is now in the planning stages according to his reply to the question.

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: Madam Speaker, it gives me great pleasure to say that just yesterday I wrote a memorandum to my colleague the Minister in charge of Lands asking him to explore the feasibility and the possibility of procuring some land which was originally offered in the Frank Sound area. I asked my colleague

to find out if this land is still available and to advise the Ministry as to the feasibility and practicability of obtaining for these purposes.

The Speaker: Member for North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. I wonder if the Honourable Minister would say if it is the same piece of property that he and I wrote about to the past Minister of Education back in 2000.

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: It most certainly is, Madam Speaker, the said piece of land.

The Speaker: The Fourth Elected Member for the district of West Bay.

Mr. Cline A. Glidden, Jr.: Thank you, Madam Speaker. In answer to (a) where it says, "**Government is still considering the feasibility of restructuring secondary education, and is looking at all possible alternatives**", I wonder if the Minister could say whether the school inspectorate or any of their reports are having any input in the decision making process.

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: Indeed, Madam Speaker, that is a good question. Yes, the school inspectorate has communicated with the Ministry their disposition on this whole matter, particularly, in regards to curriculum and the development of a national curriculum and I take this opportunity to say that the schools' inspectorate is but one body external to the Ministry that we have received advice from.

Early next month, we will be visited by Professor Mark Bray who is a distinguished authority on the restructuring of secondary education. Professor Bray will be coming as a guest of the Ministry and will be giving a public lecture at the Community College. It is the Ministry's intention also to consult with Professor Mark Bray on this move because, I reiterate, it is of critical importance that we get this exercise done properly.

The Speaker: Are there any further supplementaries? If not, let us move on to the next question.

Question No. 22

The Speaker: The Elected Member for the district of East End.

No. 22: Mr. V. Arden McLean asked the Minister responsible for Health Services, if a new contract or agreement has been signed or entered into between

the Cayman Islands Health Services Department and the Baptist Hospital Group of Florida.

The Speaker: The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: To date the Cayman Islands Health Services Department has not signed a new contract with the Baptist Health Systems of South Florida. The current contract is due to expire on 16 March 2002.

As a temporary measure, a decision has been taken to extend this contract under new conditions. Presently, the terms of the contract are being re-negotiated in an effort to secure more favourable rates for services provided.

The Health Services Department will be in a better position to negotiate more effectively with other overseas service providers, after William M. Mercer, the consulting firm hired to advise the Government on establishing a self-funded health scheme, has completed its work.

Additionally, I may say that I am informed only today that discussions are underway with Baptist Health Systems of Florida and the negotiation seems to be going quite well on both sides. It appears that it will be possible to negotiate an extension at better rates.

Supplementaries

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Can the Minister define the temporary extension as to how long that is?

The Speaker: Honourable Minister for Health Services.

Hon. Gilbert A. McLean: Madam Speaker, we are expecting it to be a one year extension.

The Speaker: Elected Member for the district of East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. In the substantive answer the Minister also said that the Health Services would be in a better position to negotiate more effectively with other overseas service providers after the William Mercer Consultant Firm has completed its work. Can the Minister then tell us when is it expected that the Mercer consulting firm will complete its work?

The Speaker: Honourable Minister for Health Services.

Hon. Gilbert A. McLean: Madam Speaker, we should have a report by the middle of this month on the first

phase of the consultancy which has been the largely the data gathering and analysis thereof.

The Member also mentioned the fact that the substantive answer spoke about being in a better position to negotiate with other service providers, I can tell the House that what is seen to be a more favourable position is not to have an exclusive contract with any given facility in Florida but to seek the best value for money at what is termed 'Centers of excellence' where if a person goes for an ailment where cardiology is needed or if it is a cancer patient, they are sent to the best centre that can be found. They are referred directly to them rather than having an exclusive contract with one facility.

It is my understanding that this is the new road that is being travelled by health care facilities in the state of Florida.

Suspension of Standing Order 23(7) and (8)

The Speaker: Can I now call on the Honourable Deputy Leader, as we have now reached the hour of 11 am to move the suspension of Standing Order 23(7) and (8).

Hon. Linford A. Pierson: Madam Speaker, I move the suspension of Standing Order 23(7) and (8) to allow for Question Time to continue.

The Speaker: Thank you. The question is that Standing Order 23(7) and (8) be suspended to allow question time to continue beyond 11 am.

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

Ayes.

Agreed: Standing Order 23(7) and (8) suspended.

The Speaker: Are there any further supplementaries? The Elected Member for the district of East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Just to ask the Honourable Minister since it appears that the Mercer consulting firm is going to be shortly providing the reports and its recommendations, why then is the Government going into a one-year extension? Would it not be much better to shorten that period? I wonder if he sees it more feasible for one year or a shorter period of time.

The Speaker: The Honourable Minister for Health Services, District Administration and Agriculture.

Hon. Gilbert A. McLean: Madam Speaker, the Mercer contract is in three phases. It can be terminated at any given phase and part of the work they are doing is looking at the contract with Baptist Hospital and it is they who are actually negotiating these rates and changes on our behalf and keeping us abreast of it.

The reason for the extension of one year is to have a continuum to keep things going until we are in a position to make a complete decision.

The Speaker: First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Minister state if thus far there has been any report given either to the Health Services department or the Ministry (perhaps the Ministry more likely) with regards to any comparisons made with what charges are being levied now within the contract with Baptist compared to what obtains with other comparable institutions?

The Speaker: The Honourable Minister for Health Services.

Hon. Gilbert A. McLean: Madam Speaker, that will be coming in the first report but there are indications that there can be improvements.

The Speaker: Are there any further supplementaries? If not, we will move on to the next question.

Question No. 23

The Speaker: The Elected Member for the district of East End.

No. 23: Mr. V. Arden McLean asked the Minister responsible for Community Services, what is Government's current policy in providing affordable housing?

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank McField: The Government's current policy in providing affordable housing is multifaceted and includes: - rehabilitation and repair of existing houses, the guaranteeing of a part of a mortgage for the provision of new houses, re-examination of Laws and Regulations that regulate housing construction and housing design. We will also re-examine institutional barriers to innovation in housing design, construction and financing. The Cayman Islands Government will also use the experiences of previous housing initiatives, both locally and internationally to address the housing problem.

The Government is also very cognizant that the lack of affordable housing is one of the major contributors to social breakdown within the Cayman Islands. As Members are aware, many families do not qualify for funding for a house. A long-term goal of the Government is to provide opportunities for Caymanians to upgrade or to further their education and life skills and to review the minimum wage regulation. The Ministries of Community Service, Education and Tourism will carry out these initiatives.

The most recent initiative is the "HOME" Programme, which stands for *Home Ownership Made Equitable*. This programme targets those people un-

able to qualify for the Government Guaranteed Home Mortgage Scheme. Government has secured US\$5 million from Caribbean Development Bank for this programme that will be administered by the newly formed Cayman Islands Development Bank. We are also currently reviewing various housing systems and financial options from the private sector as public-private partnerships are also largely a component of our housing strategy.

In 2001, Government contracted to purchase 11 acres of land in West Bay for a low cost housing development scheme by making a down payment of 50 per cent toward the purchase price of the land. The balance of this cost (in excess of \$200,000) is due in 2002. (This land will eventually be vested in the CIDB). In addition, we have approximately 4.2 acres near North Sound Courts for low-cost housing construction.

It is the intention of the United Democratic Party Government's intention to make available approximately 200 low-cost houses for Caymanians to acquire over the next 12 months.

The Speaker: Elected Member for East End.

Supplementaries

Mr. V. Arden McLean: Thank you, Madam Speaker. Starting with the last paragraph of the substantive answer in that the Government's intention is to provide approximately 200 low-cost homes for Caymanians and then the Minister also says that there are 4.2 acres of property in George Town and 11 acres in West Bay. Is it the intent of the Government to purchase lands in the other districts?

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank McField: Madam Speaker, I am happy to be able to say that the position of the United Democratic Party Government is to purchase lands in all the other districts. We realize that this is one of the great barriers that prevents people from being able to afford homes. It is not just construction cost and material that is expensive; land is also very expensive. Therefore, the majority of people are now being effectively alienated from the possibility of owning not just a house but a piece of land. We feel that we would like to purchase land in all the districts to make the whole process of affording a house easier for low-income members of our community.

The Speaker: The Elected Member for North Side.

Mr. V. Arden McLean: Thank you, Madam Speaker. Can the Minister then give an indication as to the time frame for buying these properties in the other districts and in particular East End?

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank McField: Madam Speaker, we will be using of course the same time frame as we are using for the production of the 200 low-cost housing, so we are talking about within a year (time frame).

The Speaker: The Second Elected Member from the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I wonder if the Honourable Minister could give us a little more insight into how the HOME programme is going to operate. By that I mean, is it the intention that Government, or the Cayman Islands Development Bank, is going to build these homes on the property which Government has acquired and then lend money to the purchasers at affordable basis or is there some other scheme?

The Speaker: Honourable Minister for Community Services.

Dr. the Hon. Frank McField: Madam Speaker, as most of us are aware, the issue with regards to housing in this country really is that not only low-income people find it difficult to afford housing, we also have people who do not have an income or very little income. So, there is even a lower economic group than the low-income that we need to deal with.

There are also young professionals who are not making a lot of money who need to be assisted in terms of qualifying to enter into the private housing market. This is why we have the Government guaranteed mortgage scheme that continues to be a scheme that is feasible and that the Government sees as being important in terms of assisting a particular economic strata in being able to afford housing.

Now, we also have what we consider to be persons who are working but who are not above what we might define as the poverty line which is \$1,500 per month income. Those would be persons we would have to create an additional scheme for—perhaps by assisting with the purchasing of land. For example, we might have a situation where we might actually purchase the land, the Government might actually build on it and then the person of course would be able to apply to the bank for finances for it, or we might have a situation where the Government might just have the land and the person might be able to get it and begin to build on it by contracting with the bank.

We will have situations that we have thought about where we might have someone who is developing apartments and selling for a particular amount but it is still not affordable for the particular income group that we are looking at. For example, if someone is developing apartments and putting them on the market for a price like \$75,000, that might still not be affordable. So what Government would do is subsidize that price to allow the people to get in and start paying mortgage at a particular price.

We have not worked out the details of all of this because it depends upon the funds that we have available and although we have the \$5 million from the Caribbean Development Bank not all of that will go

towards housing. We are still actively looking at raising additional private sector support for our housing initiatives.

The Speaker: The Third Elected Member for Bodden Town.

Mr. Anthony S. Eden: Thank you, Madam Speaker. Can the Honourable Minister say what is the interest rate being charged by Cayman Islands Development Bank if he is in that position at this time?

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank McField: Madam Speaker, that is not a question that I am able to answer at this particular moment but I am quite sure that the person who is more responsible for finances than I am, the Honourable Third Official Member would be willing to make a comment on that.

The Speaker: Honourable Member because it does not come directly out of the question I would much prefer either for a substantive question to be put to that effect or if it is agreed among Members, perhaps you can so direct it in writing to the Member who asked the question.

Dr. the Hon. Frank McField: Madam Speaker, I noticed there was quite a bit of movement as if *'Let us see what we can do here to find out what he is doing right or wrong'*. I would just like to say to the Honourable Members that this is no idle situation here. I have always been a person who advocated the need for housing improvement and have always stressed the role in which the lack of affordable housing plays in creating some of the very difficult social problems that we have.

So the one hundred days or more that I have been in this Portfolio, I can assure the Members of the Opposition that we are very active in being able to provide our Caymanian people with affordable homes and we will and I reiterate have up to 200 houses on the market within the next year.

The Speaker: The Second Elected Member from the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. May I ask the Honourable Minister whether or not it is the intention of Government to construct some significant portion of these 200 houses on the property that it has acquired, or is in the process of acquiring, and then to sell these homes through Cayman Islands Development Bank to approved home owners?

The Speaker: The Honourable Minister responsible for Community Services

Dr. the Hon. Frank McField: Madam Speaker, I tried to give the answer to the substantive question which

is, What is Government's current policy in providing affordable housing? The substantive answer I gave is stating the policy. Madam Speaker, I am not at this point, in the position to give legalistic details as to the policy. The policy is, I believe, that we are concerned with the fact that previous governments have not been able to deal effectively with the issue of lack of affordable accommodation for low-income persons in our community. And that we have envisaged that we will be able to put on the market within the next year up to 200 houses that would be considered low-income houses and therefore affordable to those persons who have been so far excluded from being able to participate in the housing market in our society.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I do not need to be convinced any further of what Government intends to do. That is plain and I am entirely in agreement with that policy.

I am seeking (as is my right and duty) to find out how it is that Government intends to do this. We must have something that is more than a pipe drain. While the Honourable Minister may think that is legalistic, I think that the House is entitled to know how Government intends to put these 200 homes on the market and I would be grateful for a response.

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank McField: Madam Speaker, I intend to prove to the Second Elected Member for George Town that that is not a pipe drain—that we have to put these 200 houses on the market within a year. He wants to know from me specifically how we intend to do so and what I am saying is that we are working at this particular time to be able to decide what strategies and what schemes we are going to use in order to be able to accomplish our objectives which have been defined in our policy. But we do believe that we have the capacity to be able to do so. We own land already, we have \$5 million from the Caribbean Development Bank and we are at this moment actively looking at ways and means to be able to construct these homes.

The Speaker: The Elected Member for North Side.

Mr. V. Arden McLean: Thank you, Madam Speaker. I heard the Minister say that they do not have any specifics. In an earlier supplementary he said that the intent was to purchase properties within the same time frame of the 200 homes in all the districts. Can the Minister say if the intent is to have those 200 homes spread out throughout all the districts on that property?

[laughter]

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank McField: Madam Speaker, I am still waiting to hear the question, How can that Honourable Member help to make this realizable? He has asked the question and I go back to the point that we have already given the substantive answer which I think includes a lot of information already. The specifics which the Opposition is at this time trying to ascertain are not necessarily details that we feel we can reveal at this particular time.

The Speaker: Member for North Side do you have a follow up?

Mr. V. Arden McLean: Thank you, Madam Speaker. For the benefit of the Minister . . . he knows that I have always been in support of housing in this country the same way he has. I do not want to embarrass the Minister: the proposal is 200 homes and I suspect that is the initial number that they are looking at. My question is, 'How is that divided up among the districts?' Maybe not specifically the number, but is it intended that the first 200 homes will be throughout the six districts? That is my question.

The Speaker: Honourable Minister for Community Services.

Dr. the Hon. Frank McField: Madam Speaker, he is getting closer to his real question and his real interest.

My interest is first of all to make it possible for the Cayman Islands to have an additional 200 homes for low-income families. How that will be divided into the districts will depend very much upon how that good gentleman is able and willing to support this particular venture.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. I understand what the Honourable Minister has said about the present developing of some specific initiatives which might not yet have all of the *t*'s crossed and the *i*'s dotted. Can the Minister say, if when he speaks to the number 200 if there is any situation, given the land that is available now, which lends to what type of combination it will be? Will be all single family homes, or will there be both single family homes and multi-family dwellings?

The Speaker: Honourable Minister for Community Services.

Dr. the Hon. Frank McField: Madam Speaker, we will have, as I said before, many different types of needs so that although we have groups of persons that cannot afford to get into the private sector housing market they are still, when looked at, divided from the point of view of their ability to own and purchase.

We would not look at one particular way of creating those homes—when we say homes it also means apartments. We would be looking at, for in-

stance, if you were developing a project of apartments and you were selling them at a reasonable price of \$60,000 or \$100,000 and someone could not pay into that and finds great financial hardships in taking over those types of mortgages—because our experiences are that a lot of people are trying to buy apartments that are being built by the private sector.

So, Government does not want to go and start building apartments by itself when it knows also it can buy in and therefore have greater disbursement of persons by using private sector dwellings as well as what Government might be able to construct. We would go in and say ‘all right, you are selling your apartment for \$60,000 they can only afford to pay \$30,000’. Government would of course subsidise that to a point.

There are all kinds of means test that have to be developed to decide categories a person would go into, therefore, what scheme they would go into. It would depend upon income and all of those details. What we know at this time is that we would be able to at least use those particular types of construction with the purchase and availability of land to be able to guarantee within that framework of time when we could have that number of affordable houses on the market.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. My follow up supplementary will lead the Minister to where I was going. The way we have zoning in the Cayman Islands at present is going to be a great factor in the number of dwellings that can be built, given the size. So I was asking if specific areas are identified—if perhaps it would be looked upon to have a special type of zoning for certain types of accommodations. If we speak to the 15 acres for instance that the Minister referred to in the substantive answer, and we were speaking single family homes, we might be looking at somewhere between 50 and 60 homes at maximum. That is why I asked the question.

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank McField: Madam Speaker, actually this housing issue has not started with me of course. There has been the committee that was looking into a lot of these issues with regards to housing policies for government. One of their policies to provide low-income Caymanians with adequate affordable housing was to see that there was a minimum standard housing code. That is, we would have the possibility to change the Law with regards to what is acceptable. We see this as one of the institutional barriers that has prevented Government from developing affordable housing.

I know there will be a lot of criticism when Government starts to provide affordable housing because one of the handicaps that Government has experienced is that it is almost like the Government is saying itself that, ‘We cannot have these minimum standards . . . if we build houses they have to look like

this’. The people who will benefit from these houses have also come and say, ‘*Well if Government is going to build something for me I know it has to look like this*’.

Right in front of my door where I live on Templeton Street is a nice little house that was put down there by the Rotary Club of Grand Cayman and they got that house from Mr. Lawrence Thompson. *[inaudible comment]* Well, I do not know about the Lions Club, but whoever helped, it is where I live, it is on my street. But the piece of land that the person put the house on cost \$45,000. More expensive than the house! And it is ridiculous that the person has to pay \$45,000 for a piece of land. That piece of land could be divided into four portions I assure you, or at least two, and it makes good sense.

I think that what we have to do is to bring this as a policy, change the laws to make it more possible for poor people to exist in our midst and not—like I said in my Throne debate, legislate to the point where they cannot exist. Our standards are much higher than they are able to achieve themselves. So, it is our intention to change the law in order to accommodate this type of development.

The Speaker: Are there any further supplementaries? If not we will move on to the next question.

Question No. 24

The Speaker: The Elected Member from the district of East End.

No. 24: Mr. V. Arden McLean asked the Honourable Minister responsible for Community Services, Youth and Women’s Affairs, when will a Coach/Sports Coordinator be appointed for the eastern districts?

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank McField: The Department of Youth and Sports has hired Mr. Elbert McLean as Community Football Coach (through coaches’ subsistence) for the eastern districts. His schedule is as follows: -

Day	Time	Venue	Groups
Monday	4-8 p.m.	East End	Primary School, 14 and UI7
Tuesday	4-9 p.m.	Bodden Town	U12, U14, UI7 and seniors
Wednesday	4-8 p.m.	North Side	U12, youth and women
Thursday	4-9 p.m.	Bodden Town	same as Tuesdays
Friday	4-6 p.m.	Truman Bodden Sports Complex	Football matches
Saturday	9-11 am	Truman Bodden Sports Complex	Football matches

Mr. McLean has successfully organised the U14 and U17 Football Programme in Bodden Town, therefore, he will be spending an extra day in Bodden

Town until the teams in the other two districts are organised.

In the past, the National Football Coach has tried to establish a Youth Football Programme in the districts of North side and East End, but the communities for continuing the programme did not share the responsibility.

Mr. McLean will assist the Department of Youth and Sports in finding the desirable person(s) to make this happen.

The Speaker: Are there any further supplementaries? If not, we will move on to the next item of Business.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received no notice of any statements by any Member of the Government.

The Speaker: Can I have a Motion for the suspension of Standing Order 14(3) to allow Government Business to take precedence over other business?
Honourable Minister for Education.

Suspension of Standing Order 14(3)

Hon. Roy Bodden: Madam Speaker, I respectfully beg to move the suspension of Standing Order 14(3) so that Government Business may be able to be conducted today being deemed Private Members' Motions day.

The Speaker: Thank you, Honourable Minister. The question is that Standing Order 14(3) be duly suspended to allow Government Business to take precedence over other business.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 14(3) suspended.

The Speaker: Would the Honourable Minister wish to commence his debate now or would he wish for a morning break? I am entirely up to your wish.

Hon. Roy Bodden: Madam Speaker, I think it would be in the interest of the House to take the morning break and if it meets with your pleasure I would suggest a 10-minute break so that I can resuscitate myself somehow and resume thereafter.

The Speaker: Thank you, Honourable Minister. At this time we will suspend for 10 minutes.

Agreed: Standing Order 14(3) suspended.

Proceedings suspended at 11.43 am

Proceedings resumed at 12.05 pm

The Speaker: Please be seated. Proceedings are resumed.

Speaker's Ruling arising out of Point of Procedure regarding Reply to Throne Speech Raised by the Second Elected Member for George Town on Monday 25 February 2002

The Speaker: Before calling on the Minister of Education to continue his debate on the Budget Address, I was asked some days ago to make a ruling and I propose to do that at this time. That is the ruling asking who basically had a right of reply, if any.

Firstly, I propose to go through the past 10 years; set out the findings as I have found them and conclude with an analysis which I have made and then my ruling thereon.

▪ In 1992, the Honourable Thomas Jefferson, Leader of Government Business, moved the Motion of thanks and the vote was taken. He also concluded the debate on the Throne Speech, the question was again put on the Motion of thanks at the end of the debate.

▪ In 1993, the Leader of Government Business moved the Motion of thanks. The Financial Secretary also delivered his Budget Address and moved that debate on the Budget Address be deferred and that the Throne and Budget Addresses be debated together. The Leader was the last to speak before the Honourable Financial Secretary replied to his Budget address. The question was put that the Appropriation Bill be given a second reading.

▪ In 1994, the Honourable T. Jefferson, Leader of Government Business, moved the Motion of thanks. Financial Secretary wound up the debate as he replied to the Budget Address.

▪ In 1995, the Leader of Government Business moved the Motion of thanks. When the Leader got up to debate the Throne Speech the Speaker, the Honourable Sybil McLaughlin, said: "**The Honourable Minister, who is the mover of the Motion . . . indicated yesterday that he leaves the Island tomorrow morning and will be gone for some time. In those circumstances, the Chair will not require him to complete the winding up debate because this is a Motion that does not call for a conclusion or action. It is just a Motion to debate the Throne Speech which is now taking place. Another Minister, as I understand, will do the closing remarks**".

The Speaker did not put the question at the end of the debate but said and I quote, "**That concludes the debate on the Throne Speech delivered by His Excellency the Governor. As there is no question for conclusion that terminates that issue**".

▪ In 1996, the Honourable Truman Bodden, the then Leader of Government Business, moved the Motion of thanks. He also concluded the debate. The question was put at the end thereof.

▪ In 1997, the Father of the House, the Honourable John McLean moved the Motion of thanks. The Speaker called upon the Honourable Financial Secre-

tary to reply as the Throne and Budget addresses were debated together. The question at the end of that Appropriation Bill was for it to be read a second time.

- In 1998, the Honourable Thomas Jefferson, Leader of Government Business moved the Motion of thanks. Two Members debated after the Second Member who was a Member of the Back-Bench at that time moved a closure Motion that the question be now put. The question was that the House records its grateful thanks was then put.

- In 1999 the Father of the House, Honourable John McLean moved the Motion of thanks. The Honourable Second Official Member concluded the debate. I should wish to refer the circumstances as set out in the *Hansard* for that year. The Honourable David Balantyne addressed the Speaker by saying as follows: **“Mr. Speaker, I realise this is perhaps a break of tradition, but I do have one or two matters that I wish to bring to the attention of the House...”**. He concluded by saying, **“This is all I wanted to say, Mr. Speaker, I am grateful for the opportunity, even it is unusual, except to add that I personally want to offer my thanks...”** It goes on to The Excellency the Governor.

- In 2000, the Father of the House, the Honourable John McLean. He also concluded the debate. The question was then put that this House records its grateful thanks.

- In 2001, the Father of the House, the Honourable W. McKeever moved the Motion of thanks. The Honourable Financial Secretary replied as the debate was on the Throne Speech and Budget Address. However, before putting the question on the Second reading of the Appropriation Bill, the Speaker said, “the House having recorded its grateful thanks to His Excellency the Governor for the delivering the Throne Speech on Friday, 9 March 2001 the question is that the Appropriation Bill 2001 be given a second reading.

I further broke down the information that I found and I will share as follows:

- In the Year 1992 the Speaker was the Honourable Sybil McLaughlin. The Motion was moved by Thomas Jefferson and the Speaker in that instance said and I quote, **“[May I] ask the Mover of the Motion if he would like to conclude?”** The Honourable Thomas C. Jefferson concludes.

- In 1993 the Speaker was the Honourable Sybil McLaughlin. Honourable T. Jefferson moved and he spoke before the Honourable Financial Secretary wound up as the question was put on the Appropriation Bill and both debates took place at the same time.

- In 1994 the Speaker was Mrs. Sybil McLaughlin. The Honourable Thomas Jefferson moved that the Speech from the Throne by Her Majesty the Queen, be taken as read and consideration be set down for Wednesday 2 March 1994. The last Speaker was the Honourable Financial Secretary, George McCarthy as it was again the Appropriation Bill and the Throne Speech together.

- In 1995 Honourable Sybil McLaughlin, [Speaker]. The Honourable Thomas Jefferson moved [the Motion] as in 1992, the Election year. The

Speaker at that particular time said that **the Honourable Minister, the mover of the Motion to thank His Excellency the Governor for his Throne Speech, indicated that he would leave the Island the next morning. In those circumstances, the Chair would not require him to complete the winding up debate because the motion “does not call for a conclusion or action. It is just a motion to debate the Throne Speech . . . Another Minister, will as I understand, do the closing remarks”**. And the question was so put.

- In 1996 the Speaker was Mrs. Sybil McLaughlin. The Honourable Truman Bodden moved and he concluded.

- In 1997 the Honourable Mabry Kirkconnell was the Speaker. The Honourable John McLean moved and the Speaker called on the Honourable Financial Secretary as again it was the Appropriation Bill that was being dealt with together.

- In 1998 the Honourable Mabry Kirkconnell was the Speaker. The Honourable Thomas Jefferson moved. In this particular instance we saw that there was a closure Motion, which in my view was a *nova actus interveniens* and changed the situations so the debate was prematurely aborted.

- In 1999 Honourable Mabry Kirkconnell was the Speaker. The Motion was moved by Honourable John McLean. As I indicated earlier, the Honourable Second Official Member concluded but indicated that it was a move away from tradition.

- In 2000 the Honourable Deputy Speaker was the Honourable Edna Moyle. The Motion was moved by the Honourable John McLean and the last person to speak was the Honourable John J.B. McLean. The question was put.

- In 2001 the Honourable Mabry Kirkconnell was the Speaker. The Motion was moved by the Father of the House, Honourable McKeever Bush. The last person who spoke was the Honourable George McCarthy because once again it was the Appropriation Bill that was debated together.

Honourable Members as we can see from the research that I have done, six out of the past 10 years, the Leader of Government Business moved the Motion of thanks. Four out of the 10 years the Father of the House moved the Motion of thanks for the Throne Speech. During this period of research, 1992 to 2001, there are however, five instances in which the Throne Speech was made with the Budget address and in all of those instances the Honourable Financial Secretary exercised his right of reply as in my view, was appropriate for him to so do.

There are two instances where the Leader of Government Business moved the Motion of thanks and concluded the debate as well as in another instance delegated the right to conclude to another Government Minister.

There is but one instance that the Father of the House moved the Motion of thanks and also concluded the debate on the Throne Speech.

There is another instance within the 10-year period that the Father of the House moved the Motion

of thanks and another Government Member being the Second Official Member concluded the debate which I have already dealt with. And I have already dealt with the last instance which was aborted by the fact that a closure Motion was moved by a Member of the then Back-Bench.

Therefore, Honourable Members, in 9 of the 10 years, the debate was concluded by a Government Minister or official member. The only exception during that period was the time that the closure motion was so moved on the Throne Speech by the Back-Bench Member.

It would appear from the research conducted that in the early days the Leader of Government Business moved the Motion of Thanks and concluded the debate other than when there was an Appropriation Bill when the right of reply by the Honourable Third Official Member was appropriate.

In more recent years, however, there is no consistency that it was the Leader of Government who concluded debate on the Throne Speech as it was moved toward the Father of the House having concluded the debates in the later years.

Since the Speech from the Throne is read by the Governor, but contains the Government's policies, it may not be unreasonable to allow a representative of the Government to conclude the debate since it may be in the public's interest for the Government to respond to matters that have arisen during the course of the debate. This, in my respectful view, does not confer an unfair advantage on the Government as it is the Government's policies that have been subjected to the debate and the practical outcome of the past practice is that Government has, in effect, a right to respond to any criticism of its policies which have arisen in the course of the debate.

Honourable Members, before the debate on this Throne Speech so concludes the Chair intends to invite the Government to respond to the Throne Speech. Obviously this is a right that the Government has a discretion whether or not to exercise: Herein lies my ruling.

The Honourable Minister responsible for Education continuing the Throne Speech Debate.

GOVERNMENT BUSINESS

Debate on the Throne Speech Delivered By His Excellency, Mr. Peter J. Smith, CBE, Governor of the Cayman Islands, Friday 15 February 2002

(Continuation of debate thereon)

Hon. Roy Bodden: Thank you. Madam Speaker, yesterday afternoon I expended some 12 minutes of my allotted two hours in my debate and at the conclusion I had drawn reference to a matter which gives me serious concern and which I deemed it necessary to make a reply distancing the United Democratic Party from the notion of garrison politics and garrison constituencies as espoused by Opposition elements.

Madam Speaker, overnight I thought about it and I wondered why would persons who purport to be responsible, introduce such alien concepts into Caymanian politics. 'Garrison' politics and 'garrison' constituencies basically mean that if you are in a garrison constituency and you represent a certain element or a certain party, your constituency is almost parametrically sealed against any outside political influence coming in to the point where violence is often exercised to keep that vacuum; to keep outside elements and ideologies which are different from what is espoused within the area.

My reading of *'Born fi Dead'*, the book, which details the birth and development of the Jamaica poses deals a lot with that. In my travels to and from Jamaica I sometimes hear of it and when I pass through it is often pointed out to me. But that has never been anything that has occurred or that the ground in the Cayman Islands is even fertile for, except to say that I notice—and maybe people are trying to give us notice—the Common Room is off grounds now to the Opposition. Even in my time here in the most heated debates, all Members of this Honourable House socialised in the Common Room.

Well, of course in a democracy people have freedom of choice but I just wondered if this whole notion of garrison communities and garrison constituencies has something to do with the boycotting of the Members' Common Room. Because if we purport to be responsible people, can we not distinguish and differentiate between the 'cut and thrust' of healthy parliamentary debate and our private virtues and prejudices, which should not be taken into our everyday activities of parliamentary affairs?

Madam Speaker, just like the Government has a responsibility to be frank, forthright and to be candid, so too does the Opposition have a responsibility to display maturity. They have a well defined role under the Westminster system with prescribed behavioural patterns.

They have to live up to certain expectations just like the Government has to live up to certain performances. The breakdown in the behaviour, as far as I am concerned, is quite clear and it seems to me that it is high time we begin to practise what we preach and come back to what was normal and accepted behaviour.

As I listen to the Talk shows and hear comments from time to time and particularly read what is carried on *Caypolitics*, I cannot help but be disturbed because it seems to me that since the birth of the United Democratic Party there are mischievous elements in the country who are bent on twisting, fermenting strife and destroying what has up to this point, been a peaceful, political transformation.

It is democratic right of persons to form associations; to form political parties and the persons who got together to form the United Democratic Party are exercising a legitimate, legal, constitutional and democratic right. With the formation of that party comes a mandate to foster the development and progress of the Cayman Islands which, in a way that I contend, can best be fostered through an organisation that is

united common values and objectives made public espoused by the Members as to the direction in which they are taking the country.

Other individuals, if they are constructive, can form themselves into an entity and propose what they see as the imperatives and importance. But you know why that has not been done up to this point? Because certain persons here can only function as an agglomeration of individuals. This is an individualistic society and I have said that our downfall is the celebration of piracy and I am working to put pirate politics to an end. This whole business of friend today and foe tomorrow and 'when it suits me I am your ally and when it does not suit me I jettison you' has to end. This is the 21st Century. Piracy should not be practised or celebrated, least of all, under the Westminster system.

And so, I believe and I am convinced that the United Democratic Party as an entity has a role to play and thank God that there are those persons who are like-minded who believe that it is essential to galvanise ourselves into a unit to move the country forward, who are prepared to put up a manifesto, to stand by it to try to achieve housing; to try to achieve technical and vocational education, to try to achieve a proper health service with all its ancillary elements. That time has come and I am happy that history has afforded me the opportunity to be part of that bold vision.

Now, history is rife with nay-sayers and detractors. We shall have to leave them behind. Events must be structured so that the people can know. What we (United Democratic Party) are about is drafting a new social contract which is inclusive; a social contract which includes everyone even those who were hitherto disenfranchised, down-trodden, rejected and labelled. All inclusive.

And if the Opposition wants to play their part, there is a part for them to play. But they have to realise that it is a constructive and responsible part. You cannot criticise unless you have alternatives and I do not hear any alternatives. I just heard, '*There was nothing excited in the Throne Speech*'. But I read the transcripts of what was said and I did not see any constructive alternatives offered because if they were offered a responsible government would have to be forced to take cognisance of them.

Political maturity is what it is all about and we have to practice what we preach! Therefore, we cannot rail about the possibility of 'garrison' politics and 'garrison' constituencies when we are boycotting the Common Room. That itself is a form of 'garrison' politics.

Madam Speaker, I want to turn now to equally important things. I want to turn to the Ministry for which I hold responsibility and developments and I want to speak about challenges for which appropriate responses must be crafted. I want to speak about the Government's vision of what it sees as the way forward in Education, Employment Relations, Human Resources, Culture: all those areas for which I hold responsibility.

The Department of Employment Relations

Firstly, I want to speak about employment relations because in many respects I think that is the easiest and it is the one that the positive results are more easily obvious.

The Department of Employment Relations (formerly the Labour Department) is responsible for assisting the Government in the formulation and implementation of sound labour and employment policies by promoting a stable work environment, training and career development, opportunities for employment creation and the necessity to employ best practices.

The Department has a staff complement of 17, which includes the Director and the Deputy Director. We have a new Director (new in the sense that the present Director is a civil servant of some years standing) brought back into the realm of the Civil Service after a two-year sabbatical in the private sector and this Director has come to the Department with a refreshing new vision and has made leaps and bounds to the point where we now have a draft discussion Paper (White Paper) on a new employment relations law which is a matter of pride because it encompasses not only labour, as we know it, but takes also into consideration pensions, health and safety in the work place, workmen's compensation, and aspects of the trade and business as it is applicable to employment relations.

The discussion Paper has met the approval of the employment forum which is that body representing all of the major employment sectors: the Chamber of Commerce, the Tourism Association, the Bankers Association, the Society of Professional Accountants, NACE, Human Resource Practitioners, the whole gamut. It has been taken to the Executive Council and has received its approval to be tabled in the House for public discussion for a period of three months. Thereafter, when we receive the feedback we will amend the discussion document and draft a Bill accordingly.

The law will be predicated upon certain things, not the least of which is an obligation by the Cayman Islands to meet with International Conventions, Standards and Regulations including those set down by the International Labour Organisation (ILO), but also those set up and expected from the International Convention on Social and Economic Rights, which specifically has to do with minimum wage legislation in the Cayman Islands.

It takes into consideration the whole development and future of the Tribunal system which has served the country well, but which is under review now with a view to improving that mechanism. We will still be using tribunals albeit on a much reduced scale to what was there and we will still have the Appeals Tribunal.

Improvements have been made, in that, we have removed the Appeals Tribunal from the sight where the Tribunals themselves have been housed. In this we have employed the consultancy services of Mr. Peter Syson whose Paper I tabled earlier in the Legislative Assembly and who is advised on arbitration, conciliation and consultation because we want to

move away from a largely adversarial system to one of advice, arbitration and conciliation so that the employment relations climate becomes less contentious and more identifying the problems as they exist in the work place and trying to 'nip them in the bud'.

Most recently, the Employment Relations Department conducted an unemployment survey throughout the Islands. We did this because we were receiving complaints about significant unemployment among elements of the Caymanian labour force. Madam Speaker, I would like to share with your and the Honourable House some of the findings, because I believe this is significant in what we are trying to develop and significant and revealing in the way forward:

□ The total male persons seeking employment numbered 115 with 46 applicants or 40% of the total being in the age range of 18 to 25. And 23 persons or 20% of the total being in the age range of 26 to 35.

□ The total female persons seeking employment numbered 118 with 39 applicants or 33.92% being in the age range of 26 to 35. A total of 35 persons or approximately 30% being in the age range of 18 to 25.

It should also be noted that males exceeded female applicants in the over 55 age group. In the male category there were 11 persons who sought employment with the eldest person being 83 years of age.

There were several issues which were gleaned from this exercise one of which is that if we are going to be successful in our attempts to seek total employment for Caymanians we have to take into consideration certain factors and I will not elaborate on what those factors are at this point.

Suffice it to say that the Employment Relations Department has deemed it necessary to think about offering some courses in resume writing, deportment and hygiene and also punctuality and general interests. I would hope as the Minister that—and I certainly encourage the Employment Relations Department to take this information and sometime in the near future put together training seminars so that we can equip our people, not only ensuring that they have the necessary skills for what is offered, but also that they work in these other areas of resume preparation and give advice on deportment and appearance and so forth.

The next step in the presentation of these proposals I hope will be to address the Chamber of Commerce and that is after this discussion document has been tabled in this Honourable House. Education presents a rather more significant challenge and we have made some great strides, many of which have been mentioned in the Throne Speech.

I just want to say in conjunction with my interests and my objective of developing information and communications technology as a tool in education, that the Government has entered into formal discussions with IBM. It may be a matter of knowledge that late last year as Minister along with my Chief Education Officer we were invited to a seminar put on by IBM in Palisades, New Jersey and we attended. Emanating out of that came the interest to take matters further on a more formal scale.

We have been discussing with IBM the possibility of doing an information technology audit of our schools with the view to providing the most up to date information technology for everyday use in our classrooms. IBM as a company has informed me that they are interested in financing that national project. The Government is paying for the audit. When we ascertain exactly what the proposals are and have seen how it would fit our objectives, I would hope that it is a project that we can go forward with. Because at the end of the exercise it is our objective to ensure that every high school graduate in the Cayman Islands comes out computer literate.

I believe that the project, should we follow through with it, would mean that every student in the schools in the Cayman Islands has access to his own personal computer. The logistics and details are still to be worked out but certainly at the school which I visited in Gwinnett County, Georgia, I saw this practice in place and I can say that from discussions with the Principal and those staff members involved, one of the immediate benefits of this was that disciplinary problems in the school were lessened significantly by the availability of computers and a computer lab to these students.

So, we would expect to see almost immediate positive returns on such an investment if we were to take it up. But the die has by no means, been cast. There are many factors that we have to take into consideration such as the ultimate cost and if indeed we do take up the offer of financing by IBM we would have to ensure that the terms are suitable to us.

It is also my understanding from IBM that they have done this in Grenada and there is a proposal to do so in Puerto Rico and some of the other Islands of the Caribbean. It is something that we are looking forward to with great interest.

I am happy also to be able to report that the Cadet Corps is off and doing well. As is to be expected with the inception and implementation of any new ideas, we had our beginning challenges. I heard yesterday from the Chairman of the Advisory Committee and I heard this morning from the Administrative Officer in the Ministry whose responsibility is to liaise with the Cadet Corps on behalf of the Ministry that we have made great strides. There is now a female officer because we have about 20 male cadets and 16 female cadets. So, we have a full co-educational corps and we have a male commandant and female officer who will be assisting.

Uniforms have been procured and we are in the process of outfitting the youngsters. It is a four-year programme so we have started at the Middle School. The Corps headquarters is just over here in the lot adjacent to the Library and has been refurbished and indeed is still being worked upon.

I look forward to a passing out parade sometime, hopefully, before His Excellency the Governor's term is up in May so that he being a source of great encouragement, can have the pleasure and the opportunity of handing out the candidate Cadets their kits and their certificates of completing the initial training.

The Speaker: Honourable Minister, are you moving on to a new topic? Is it an appropriate time for the luncheon break?

Hon. Roy Bodden: It certainly is, Madam Speaker.

The Speaker: Thank you. We will suspend until 2.30 pm.

Proceedings suspended at 12.45 am

Proceedings resumed at 2.41 pm

The Speaker: Please be seated. Proceedings are resumed. The Honourable Minister responsible for Education continuing his debate on the Throne Speech.

Hon. Roy Bodden: Thank you, Madam Speaker. Prior to the luncheon suspension I was making some comments on the...

**Point of Order
(Lack of Quorum)**

Mr. Cline A. Glidden, Jr.: Madam Speaker, on a point of order.

The Speaker: Please state your point of order.

Mr. Cline A. Glidden, Jr.: We do not have a quorum. There are six Members from the Government Bench and there is only one Member from the Opposition.

The Speaker: That is a point of order under Standing Order 13(1), which says, "**The quorum of the House and of a Committee of the whole House shall consist of eight Members in addition to the person presiding. (2) If objection is taken by any Member that a quorum is not present...**" objection has been taken, so I would ask for the Serjeant to summon the relevant number.

[Pause].

The Speaker: Honourable Minister for Education a quorum is now present you may kindly continue.

Hon. Roy Bodden: Thank you. Prior to taking the luncheon suspension I was about to make the point that on the matter of Employment Relations is much work to be done in the country. Since assuming the Ministry there have been, to my disappointment, a significant number of instances of disingenuousness on the part of some employers as far as good practice and fair employment practices are concerned in their recruitment and treatment of Caymanians.

I believe that these are matters that should first be attempted at redressing by dialogue and discussion, but if that fails then I believe we should resort to the letter of the Law. I say that to say that some

observations received regarding the current Labour Law is that it 'lacks teeth'.

We have tried in this draft proposal to strengthen and bolster those areas of weaknesses from experience in the present Law but there is still much to be done, so much so that it is proposed that there be a closer liaison between the Employment Relations Department, the Immigration Department and the Trade and Licensing Board.

The Immigration Trade and Licensing Board and the Employment Relations Department will have to work in closer liaison to ensure that the Law is upheld and that best practices obtain throughout the world of employment.

I do not want to elaborate and I am certainly not one to take tales out of school, but the occasion has presented itself where I have had (as the Minister) to call certain establishments and certain employers and remind them of their obligations under the Law to be non-discriminatory and to be fair in their treatment of Caymanians.

I cannot say that I have been successful on every occasion, but for the most part, the persons on the other end of the line left me with the impression that they were willing to work. It is incumbent upon us that we get this matter settled. That is why I would invite all persons concerned (stakeholders, employers and employees), to get the draft discussion Paper when it is made available to the public, peruse it and familiarise themselves with it and let us know of their concerns. We would like to build a strong tripartite system of employer/employee and the Government as a neutral party down the middle. It is incumbent upon us that we get such a practice in place.

We propose working in conjunction with the Chamber of Commerce and the Society of Human Resource Professionals to make available training and employment opportunities for Caymanians, so that Caymanians can avail themselves of opportunities in order that they can make the best of the employment opportunities available and that they can be upwardly mobile and keep abreast of modern international trends.

The Ministry is also in discussion with the Investors in People programme headquartered in the United Kingdom with a view to adopting that standard in the Cayman Islands. Indeed, we have been offered a full country licence. This will give us an opportunity to further train and professionalize employees. There are several international companies currently operating in the Cayman Islands, which are familiar with this standard. We believe that we have an obligation to ensure that 80 per cent of the businesses which employ 10 persons or less in the Cayman Islands are not disadvantaged. So much so, that the Employment Relations Department has bolstered itself by the acquisition of a small business advisor.

We intend to work in tandem and co-operation with the Ministry of Tourism and Commerce to develop a proper micro-finance initiative which involves proper advice and counselling and supervision on the part of the Employment Relations Department working with the Ministry of Tourism and Commerce which is

going to provide the funding through, hopefully, the Cayman Islands Development Bank.

I pause here to put in a plug for the United Democratic Party because shortly after, indeed, even before we came as a government, the Minister of Tourism expressed an interest in this kind of venture. I told him that I was also interested in showing him some literature I had on micro-finance initiatives. On a visit, which we had to the Bahamas on Commonwealth Parliamentary Association business, we took the opportunity to visit the Bahamas Development Bank.

I am happy that the Minister persisted in going through with that idea and I am happy that history afforded me an opportunity to be a part of the United Democratic Party which has made a milestone in the Cayman Islands economic development by the establishment of the Cayman Islands Development Bank. I think it is something that the small and medium size entrepreneur can look forward to and I would implore them to take advantage of the opportunities to not only start their businesses but to further develop and improve them and to take advantage of the advice and the presence of the small business advisor at the Employment Relations Department.

A sore point has been the backlog of work from labour tribunals and I find it unfortunate and regrettable to say that all labour tribunals have not been as conscientious as they could be. There is an instance where I have written to the chairman of a labour tribunal who is also a Member of the Legislative Assembly. As the Minister who is responsible, I have received complaints from persons whose matters were discussed at labour tribunals and three years have elapsed in some cases and no decisions have been forthcoming.

Now, that is a most unfortunate situation because it is a situation where we cannot easily justify this. What has happened now is that parties are going to be objecting to the decision whatever way that decision falls.

The Employment Relations Department has come forward with a plan for addressing this backlog and I hope that we can get to this easily, but I do not want to leave before underscoring one point. I find it rather humorous that the UDP is being lectured to by one of these parties who is so busy that he could not find the time to put these decisions as they could have been put after such a long time has elapsed and is purporting to represent the interest of persons. Such delinquency cannot be equated to true representation.

Now, I do not want to call any name because it is not necessary, suffice it to say, that the person knows of whom I am speaking and will be receiving a letter because it cast me in an untenable light undeservedly so. I am being petitioned by persons on matters that should have been settled a long time ago and I am unfortunately and regrettably not in an enlightened position for the reason that I do not know about some of these things. Yet, as a Member of the UDP I am talked down to by that Member. I hope that we can get a satisfactory settlement to that soon.

We believe that the future is great for employment and employment relations and it would be remiss of me if I left this section without saying how proud I am of the efforts being put in by the new Director and his staff. It is these kinds of civil servants that make policy makers like me look good because they are able to take policy and implement it in such a way that it is acceptable and professionally done. I commend the Director and his staff and wish them well.

Education

Education is perhaps that part of the Ministry closest to my heart. We have several challenges in Education; some of them I am satisfied that we are moving as we should move towards meeting. Others, I am not so confident.

First of all, I want to turn to the challenges which emanate out of the Millet Report. I am disappointed that the Education Department has moved so exasperatingly slow with the implementation of those of the recommendations that we have accepted. I realise of course, that some things we have to exercise caution in, but a year has passed now and I think we should have been a little further.

I believe, Madam Speaker, as the Minister, that Education could do with a shake-up because without a shake-up it stands in jeopardy of being eclipsed by the efforts made by the Employment Relations Department. I would be happy to see my departments move in tandem. However, that is not to say that Education has not made some strides. I think, perhaps to put it into perspective I should say that much is expected of Education, if for no other reason than that is the avenue by which we expect to prepare and empower Caymanians to hold their own in Caymanian society.

So, Madam Speaker, I would encourage the Education Department, the Chief Education Officer, to accelerate the pace at which the Department is moving towards addressing those recommendations accepted in the Millet Report. I can say with some satisfaction that a committee has been set up comprised of Members of the Education Department to examine the Report of the committee to examine conditions relating to the recruitment of Caymanians into the Teaching profession with a view to recommending to myself as Minister what measures they think can be successfully implemented by the Government in terms of attracting and maintaining Caymanians into the Teaching profession.

Immediately arising out of that Report is the recommendation that we establish some sort of programme for certifying teachers' aides and the President of the Community College has been working in tandem with Mrs. Marjorie Beckles—I believe that she is the person the Education Department holds responsible for the development of pre-school curriculum and for the supervision of pre-schools. The President of the Community College, in conjunction with Ms. Beckles, has devised a two-year Associate Degree programme which will lead to the certification of teachers' aides.

This is an excellent exercise and I expect it to yield palpable and [sanguine] sanguinary results and I commend them for their efforts. Coming at a time when we are not in the greatest of position to offer incentives and these kinds of attractions, I believe that this is the way to go.

As the Minister, I have said to the Government that what I would like to see ultimately in terms of teacher education is a concurrent degree. This would afford the teacher a degree in a discipline which he/she would teach and at the same time a teacher-training certificate and degree, a Bachelor of Science, a Bachelor of Arts or a Bachelor of Education Degree which can be attained over a four-year programme to two degrees running concurrently.

I would hope that we can get such a programme implemented so that the Community College can play an integral part in the offering of this programme. I would like to set the wheels in motion to explore a collaborative exercise with preferably a Canadian University. If not, then we have to see what other universities might conveniently and affordably offer such a programme in tandem with our Community College.

I believe that if there is a weakness in what we have been doing, it is that we have not paid enough attention to the recruiting of young energetic and able Caymanians into the Teaching profession. In some instances this is the shortcoming of the Education Department, although it may be unfair and as a result of that I hope that in keeping with their adaptation of the recommendations of the Millet Report, the Education Department can better streamline itself to focus on recruitment of teachers, as well as all of the other important functions it performs currently.

The schools inspectorate is an independent body, which holds responsibility for ensuring that appropriate standards are met and maintained in Education. It is an organisation of which I am very proud. The members of staff are eminently equipped, well experienced, and thoroughly professional. All work that they have done and all advice that they have given is of the highest calibre. I commend them to maintain their excellent standards.

It is a source of pride for me when I meet the inspectorate staff: I engage them in discussions and conversations because they are knowledgeable and they express their opinions in an engaging way and they have the respect of all in the Education establishment. I look forward to their continued support and advice and, certainly as the Minister, I offer them my advice and the Government's support in ways that are important.

I have intimated that I am concerned about standards of literacy and numeracy in the Government school system. I want to be sure that with all the other attractions that we participate in that we do not lose focus on the three Rs. Just this morning I had occasion to remark to the Chief Education Officer that we should not lose sight of the fact. I say that to say that I am cognisant of the standards being set in some of the private schools and I am particularly anxious to know that the Government schools are in no way dis-

advantaged. This is why it is important that we get on with this business of a National Curriculum. Here again is an area that, as Minister, I must say I am a little disappointed, in that, we have not progressed any further and that we are moving at such a pedestrian pace.

I think that it is, as I echoed for some years while I was a Back Bench Member of this Honourable House, that when we entered into this business of a National Curriculum we did not quite think of all of the ramifications and implications involved. We have a system of education here where we do not have a roster of readily available supply teachers.

The problem we have in developing the National Curriculum, as I understand it, is that the same persons who are working on curriculum development are also full-time classroom teachers and often have to be relied upon to do work on weekends and sometimes on holidays. In other jurisdictions, these kinds of major undertakings are not handled in this way and persons who are working on major exercises such as the National Curriculum development would normally be freed from a fulltime teaching load. That work would either be done by supply or substitute teachers hired for a semester or two as the case might be.

So, there is a sense in which, although I am disappointed, I have to understand the circumstances and my impatience should not cloud my appreciation of the work these persons are doing. I am concerned, however, that we are lagging behind and if we do not do something to accelerate our pace, the time we take to complete the exercise we will have been overtaken by modern trends and changes so much so that our work may in the end be counter-productive.

I would hope, Madam Speaker, that we could find a way of accelerating the pace and one of the challenges that needs to be met is that we need to build up a roster of supply teachers who can be available not only on occasions like these, but on those occasions where we have emergencies that teachers have to leave their classrooms because of death, family illnesses or whatever, so that our children may not be disadvantaged and we do not have to do any doubling up.

There was a question this morning about the restructuring of secondary education. The restructuring of secondary education is an important tenet in the objectives which I have set myself. But it is not an easy exercise, nor did I believe that it would be. While I am of the opinion that it will make our system more efficient and for comparative purposes, ideally we will be better off when we have achieved three high schools with which to measure certain standards in academic performance, in sport, et cetera, it will strengthen our children and afford them greater opportunities for competition. It is something that we have to properly develop and think out before we can put it on line and into focus. Hand in hand with that has to be improved access to information and communications technology.

As Minister, I would really love to see information technology in our schools being accessible on a wider and more frequent basis than the way it is being

handled currently. It is my ambition to explore the possibility of our children from even at the primary stage each having access to a personal computer and the business of computer labs as we know them now, be used to bolster and augment this exercise. I would love to see all subjects being made available through information technology from science, mathematics right up to social studies. Computer literacy and the ability to use a computer is in itself a marketable skill and that would bolster our children's marketability, coupled with the fact that as an educator, I am sure that it would change many of their attitudes towards school and learning. It would be a challenge both to teachers and students to do even better than we are doing now.

I want to say too, that this whole idea and philosophy of the way we approach teaching has to be rethought. Teaching must not be seen as a chore but as a learning exercise which is fun, challenging and which has rewards at the end; rewards which can be converted into many things not the least of which is an income.

Earlier, upon assuming office, I held dialogue with the Chamber of Commerce about building a private/public sector partnership and specifically about the introduction of a mentoring programme, which would be geared as the slogan says, *Towards training the next generation of Caymanian business leaders*. I am happy to say that the exercise has come to fruition and when the Chamber launches its job Expo early in March we will be launching the mentoring programme.

I would like to publicly thank the Chamber of Commerce for their interest, not only in this but also for accepting the invitation which I gave them to help us (the Ministry) ascertain what skills and knowledge are most desired by employers of Caymanian school leavers.

It is my hope that the information gleaned from this survey carried out by the Chamber of Commerce can be used to craft a matriculation examination which will enable every Caymanian high school graduate to leave with a certificate which will allow him or her to gain access to employment in Caymanian business.

Ideally, it will work something like this: the certificates will state that these holders have attained a minimum aptitude in the skills and knowledge listed. It will enable them to gain entry perhaps in such fields as bank teller, clerical officer in the public service, clerk in a law firm or accounting firm. It will not afford them entry to college or university, but it will be more than what is currently carried by many students who leave with only a leaving certificate, which if we were to know has little value other than being purely an attendance certificate.

I hope that one of these days we can develop this into something significant and substantial so that it will be recognised even as entry to Community College Associate level degree programmes. It certainly will give the holders a sense of pride and a sense of worth.

The greatest challenge in Education as far as I see it has to be an improvement in the socialisation

of our children. I am going to tread now, Madam Speaker, in hither to uncharted waters. As a Minister I am preparing a paper to share with the caucus of the United Democratic Party and ultimately the Government, that we need to change the way we do business. I would like to speak from a position of authority when I prepare my paper to say that we need to revisit this whole business of requiring people coming on work permits with their children to send their children exclusively to private schools. It is a counter-productive exercise because what we are doing is really prejudicial and we are depriving Caymanian children of an opportunity of great socialisation with children from outside their jurisdiction.

Learning is an interactive exercise and when we do this we may think that we are helping our Caymanian children by this protectionist exercise, but in the long run we are depriving them of opportunities of association, sharing and socialisation with other children from different jurisdictions, different countries, different nationalities, different ethnic and cultural background. We are depriving them of a glorious opportunity to broaden their social horizons. But I caution: In order to do this the Government has to be in a position where it can quite comfortably accommodate these students those who are desirous of taking advantage of the opportunity to be schooled in the public system.

To this extent the Government will have to look at imposing some kind of fees (similar in nature to those in the private schools) on these students who (remember now) are not Caymanians so they will have to pay school fees. This is how the Government will have to receive its money for providing the space and maintaining the services.

It is a matter that I believe bears looking into because in this era of human rights and natural justice, people could quite logically, I would think, claim that they are being deprived of what for them should be a natural right and that they are being prejudiced against by this exercise, which right now, requires work permit holders to send their children to private schools.

It is a challenge for the future and it is one of those things that I have cursorily discussed with my technical advisors in the Ministry that we should set some time to investigate so that we can come from an informed position and see when we could implement, if feasible, such a change.

Some people may know, but I say it for the edification of those Honourable Members of the House who are not now familiar with it. The Government has received and accepted an application from an institution called St. Matthews University Medical School to establish a presence here in the Cayman Islands. We have upon investigation granted such approval because we believe that it is in the best interest of our educational developments. This is a medical school located from an offshore jurisdiction. Mainly it is a United States institution. Basically, it is expected to start up in May with an initial complement of 200 students. It is a reputable academic institution.

Some of the students have first degrees and many of them are brilliant students who, because of the quotas and the residential requirements, et cetera, were unable to gain admission into mainstream North American medical schools.

The University administrators have offered to give one qualified Caymanian student a scholarship per year. The idea is that these students will be residents at the institution in the Cayman Islands for two years thereafter they will go on to residency in a North American university. Most of the teaching will be done online and it is our understanding that one of the attractions of the Cayman Islands was the availability of Internet access.

In addition to the academic enterprise and academic prestige we believe that this can have great economic spin-offs for the Cayman Islands since each of these students will have a \$50,000 scholarship or loan. So, it will afford Caymanians the opportunity to earn some money through apartment rental, et cetera, and it certainly will afford Caymanian merchants.

Students, as you will well know are not the stingiest of spenders and indeed surveys have shown that students are some of the most generous spenders in the economy. We look forward to the movement of this institution and we certainly encourage its development.

I am happy to say that the Ministry of Health worked in tandem with the Ministry of Education, which also worked in tandem with the office of the Chief Secretary. One of the proposals made by the administrators is that when they hold medical conferences and when they have visiting medical professors and doctors they will make available these services and this knowledge with our own health services here.

Finally, on the matter of education, the Ministry is working diligently on finalising the National Policy Statement on Education. We have circulated invitations to the various levels to submit their ideas and I hope before the end of this sitting that I can Table that document: certainly if not before the end of this sitting, certainly early in the next sitting. So, all who are interested may be able to see where we are going.

Education represents for the Cayman Islands that great tool, that great equaliser, that opportunity for our students to gain the necessary knowledge and skills to move forward. We are spending time on developing what we hope is a good plan for technical and vocational education. In July of this year the Employment Relations Department in conjunction with the Chamber of Commerce, I believe, and of course the Education Department, will be mounting the first technical and vocational trade fair to be held in the Cayman Islands. It is at this point that we hope to formally launch our initiative into promoting technical and vocational education.

Culture

I want to move on now to Culture and some of its areas.

Cultural development is an important aspect of the moving forward of this country. There is great debate and much contention to the question of our

cultural development. Some people even go to the extent of asking, 'Does the Cayman Islands have a culture?'. Well, it most certainly does. But the point that I wish to make, and indeed emphasise and underscore, is that culture is dynamic, culture is ever involving—culture involves a mix and so when we speak of a Caymanian culture, we must also be prepared to take into account the fact that the Caymanian culture is influenced by other cultures and particularly, by the cultures of those persons who come to live amongst us, and with us, in significant numbers and with the kinds of interaction that some of their cultures and mores and behaviours will rub off on us. And there is nothing negative about this because that is how all cultures maintain their dynamism.

What is important is to ensure that those aspects of Caymanian culture, which are positive are in the mainstream and are given the opportunity to perpetuate themselves to such a point that we can have ease in transmitting them to the younger members of our society, and therein lies the challenge.

Earlier the Ministry held a retreat at the St. James' Castle in which we launched our National Cultural Policy initiative. It was a most interesting evening. There are certain areas that we do well in: the Cultural Foundation, the Museum, the Archives, but I must express my disappointment at music and entertainment.

One of the complaints that I frequently hear—indeed, I have at the Ministry a folder largely comprised of petitions I have received from musicians in the Cayman Islands—is that music or music produced by local musicians does not receive a fair share of air play on radio stations operating in the Cayman Islands. It is a complaint, which has legitimacy and while it is true that some of the music is not original to the Caymanian musicians, certainly their slant on it is basically a Cayman Islands slant and it has an islander slant. I think it is grossly unfair the way these musicians are treated. But it brings to my attention a wider problem, which is particularly permissive in the hospitality industry.

A few Saturdays ago I took the opportunity to take my children on a day out at Rum Point. We took the ferry and during that journey I realised how legitimate (in many instances) are the complaints we, as the representatives, receive from our constituents. On the ferry there was a crew of three but no Caymanians.

When we got to Rum Point, all of the persons serving were not of Caymanian extraction. Indeed, in all of the time I spent there I saw one person whom I believe had a Caymanian connection and there was another person; a gentleman of an Asian extraction, who was married to a Caymanian who I definitely know.

The musicians, I think one was a Scots man and two were Americans playing music. I thought that it was absolutely ludicrous probably something out of *Alice in Wonderland* playing music to a bunch of tourists who were accustomed to the kind of music they were hearing and had I not known better I would have sworn I was among the dead because the audience

was not making any sound and was not participating in any way. And I thought how interesting it would be if someone came up here now with a guitar and began to hum or strum a calypso. I would bet my bottom dollar that the audience of people who were almost dead would rise up.

The musicians were entertaining themselves only they did not know it because they were talking and they were not getting any response from the audience. They were laughing and they thought they were doing well. I said 'my, my, my' absolutely unacceptable. But what took the cake was the fact that they were bragging about how they had headlined down at the Sea View Hotel for a group called *America* some weeks or months ago and this group had taught them a song, which they proceeded to reproduce with the same results that they were playing to the dead. I mean if they had gone to a cemetery they would have received greater response!

I want to say, does not somebody recognise that we need to change a little bit? How good and how different the response would have been if they had a Caymanian combo. Good Heavens! I see the Barefoot Man—he can make the lame dance when he plays! And these people—I stayed the whole day and they played Bob Marley songs (minus much of the lyrics) and certainly no, what we Islanders would call, Calypso at all! I thought, 'It is extremely difficult not to entertain complaints we get from our local musicians and from our people when they say they are being excluded from the hospitality industry.'

I want to tell you something interesting. I inquired as to why more Caymanians were not employed. You know what these people had the temerity to try to make me a Caymanian in his fifth decade, believe? *'Oh, Caymanians do not like to dress up in the sarong and these skimpy clothes and go about serving food.'*

I said 'Well, assuming that that is the case, what you are telling me is that you are not prepared to make any modifications in your dress code. If you are correct in saying that the Caymanians do not like or want to or refuse to dress like that, what about those instances where I certainly have seen Caymanians serving in Bermuda shorts. What about those instances? What about modifying the uniform? Madam Speaker, I do not buy it!

One of these days the proprietors, themselves, are going to learn the hard way. Good Heavens! It is commonsensical! When people leave their homes in North America, or wherever they come from, they do not leave there to be served by the same people they left home. How interesting it would be to see a waiter or a waitress from the Island who could tell them and explain to them what they serve. But you know what? They serve the same North American cuisine by the same people and they listen to the same music. I mean, you do not have to be a rocket scientist to tell them that really and truly that is not what people are looking for.

Good Heavens! If you go to Jamaica it is an entirely different scene. I believe that it behoves all of us to tell these people that we need to change our

modus operandi. Not only is it being exclusionary in terms of employing Caymanians who are looking to get into that industry, but they are not doing themselves any favour by offering the patrons the same bill of fare, the music as they have just left at home.

I would think that to be successful you would want to build first of all repeat business but if the people are bored out of their minds hearing Johnny Cash, they are not going to come back. So, I say all that to say that we have much work to be done and to make the point that Caymanian culture is beginning to come alive and we have to embrace it. And I hope before long that the movers and shakers in the hospitality industry are going to realise that. Some months ago we had a festival where we were able to attract Caribbean storytellers from around the world, one would have to say. Unique!

I went one evening when they were in Bodden Town. It is a unique exercise and I think that it is positive in the sense that soon we will be able to develop our own cadre of storytellers telling local stories. We have attracted people of the calibre of Paul Cain's Douglas. These are positive exercises.

In the world of Art we are doing excellently. Art at Governor's House the last time attracted 3,000 people and I would like again publicly to thank His Excellency the Governor and his good wife, Mrs. Suzanne Smith, for hosting this exercise and hope that his successor would see fit to continue this.

It is gratifying to realise the range and calibre of talent—some clearly professionals—that we have in these Islands as far as Art goes. We have young artists who can hold their own with artists internationally.

The theatre is doing well and I must say that I, as the Minister, have tried to give them all the encouragement and support that I possibly can. I would like to congratulate the board of the Cultural Foundation for their persistence and their dedication. But we have much to do and we have miles more to go in terms of the development and evolution of a Caymanian culture. I hope that the attempts by the Ministry to craft a national cultural policy can set us on the road to doing that.

Madam speaker, what I find encouraging about the Caymanian society is that the vast mix—the ability for us to develop a multi-ethnic, multi-national, multi-cultural society. I believe our strength in the future is a blending of the various elements in our society into a strong multi-cultural society, which leads me to the position that I have never been one who was one who was anti-immigrants. I have never been one who was anti-persons from outside. I have never been anti-expatriate. Indeed, I welcome an infusion and an influx because I think it is healthy in the development of our society into a vibrant, progressive society.

I say again, as I have said before, the best protection that politicians, governments and representatives of the people can give to Caymanians is to empower them by education and training and broadening their experiences to compete. This is a multi-cultural world. We are talking about a borderless world, we are talking about globalisation. The greatest protection we can give our people is empowering

them by giving them educational opportunities, training opportunities and broadening their experiences to compete and cultivate in them a sense of open-mindedness so that they can rid themselves of prejudices and opinions which are destructive rather than constructive.

And it is to culture almost as much as it is to education that we have a vehicle in which to use to broaden and expand the minds of our people so that they can be fully appreciative of their work, their environment and their opportunities to associate with other people. That is why it is incumbent upon us to devise a strategy of assimilation and accommodation.

This leads me conveniently, perhaps, to one of the most important points that I wish to make that has to do with Education, however, I did not make it under education because I wanted to underscore its importance in the development of our country as a society with strong cultural leaning. It is the proposal of the Ministry to work in tandem with the Ministry of Community Services to launch later this year a national conference on citizenship education. It is our philosophy—and certainly it is something which the UDP is cognisant of—that the Cayman Islands must be encouraged to develop itself into a multi-cultural, multi-national society where we have full appreciation of citizenship and its rights and obligations.

We believe that the school and the community are the greatest places to develop such attitudes and knowledge. To this extent the Ministry of Education, Human Resources and Culture will be working in collaboration with the Ministry of Community Services, Women's Affairs, Youth and Sports to establish and launch this national conference on citizenship education. It is an exercise, which will take us beyond what was normally civics, into something broader, which has to do with our understanding of heritage and multi-culturalism as the key elements of citizenship. We will be focusing on democracy, good governance, transparency, human rights, tolerance, respect for others, rule of law, and conflict prevention and resolution.

There can be no better tools to prepare our country for the 21st Century world than to prepare our people for citizenship in a world where globalisation is taking priority and taking importance. It will make good citizens of Caymanians ensuring that those people whom we welcome and assimilate into our culture, respect our roots and our heritage. At the same time, it will allow them to recognise their own unique identities and their own national and cultural origins. This is the greatest way to build a multi-ethnic, multi-cultural and multi-national democracy. This has my total commitment.

The Speaker: Honourable Minister, is this a convenient time for the afternoon break?

Hon. Roy Bodden: It is. Thank you, Madam Speaker.

The Speaker: We will suspend for 15 minutes.

Proceedings suspended at 3.49 pm

Proceedings resumed at 4.10 pm

The Speaker: Proceedings are resumed.

Continuation of the debate on the Throne Speech by the Honourable Minister responsible for Education.

Hon. Roy Bodden: Thank you, Madam Speaker. In the time I have left I want to end as I have begun, by reiterating my faith in the process of party politics.

The Speaker: Honourable Minister, sorry to interrupt but just to indicate that you have 15 minutes remaining.

Hon. Roy Bodden: That is correct Madam. Our clocks are calibrated together it would seem. Thank you, Madam Speaker.

I would like to reiterate my faith in the system of party politics. I want to express my confidence in the ability of the United Democratic Party to lead this country forward in progress and prosperity in spite of the nay-sayers; in spite of those persons who call in on the radio station who anonymously leave all kinds of slanderous and defamatory comments on the Website operated by Caypolitics.

I want to say to the Opposition that they should use their good influence to encourage people to be participatory to move the country forward. We must not return to the era of *'turtle meat and breadfruit politics'* in this country. We have move to go to the position where we have party conventions and when we appear before the people they know who their government is likely to be.

Representatives must be chosen on a more scientific way than the delivery of promises or of products other than education empowerment and opportunity. We shall have to ask ourselves when the *'chickens have come home to roost'* whether we have not perpetuated an injustice upon our own people as well as upon those who have been living among us. Or, whether we are indeed acting in the best interest of civil society when we fool the people by giving them doles and hand-outs instead of opportunities for advancing and empowering themselves through education and training.

The United Democratic Party is an entity that is alive and well. It is viable and I would expect that the very dynamism and commitment of its Members suggest that it will be around for a long time. I hope that it pleases the Almighty to make it so—lest anyone thinks that I am so arrogant not to factor that in.

Members of the Opposition have said that there is nothing exciting in the Throne Speech. I say to those Members that they were not listening. I say to them that they are arrogant if they believe that there is nothing exciting in the Throne Speech. We have said what is exciting and what we are going to make even more exciting. And I would caution anyone who believes that they are going to stand in the way of progress or intimidate the Members of the United Democ-

atic Party by any means that they have adopted so far including unflattering anonymous mail.

We have a mission and just like in other countries where these events have transpired before, there is certain inevitability about this and the Opposition would be wise to firm themselves up and prepare themselves. The Cayman Islands must sail confidently into the 21st Century under the leadership that is deliberative, deliberate, and democratic and that has the best interest of the majority of the people at heart.

The United Democratic Party Government offers for this country for the first time in its history the ability to cogently move the Cayman Islands forward in a way that all in the society can be confident, can be proud of, and can say that they have a vested interest and a stake in.

A new social contract has been written in ink, which is not going to fade! A new social contract has been written which guarantees for the young people of this country opportunities and it says to the middle-aged and elderly of this country 'you can be proud you will not be left out, you will not be disenfranchised'. I have my loudest and most resounding words to say that the Cayman Islands must move confidently forward in terms of an advanced and modern constitution which allows the citizens to participate to the fullest in what is the essence of democracy, that is, choosing the people who will govern them or lead them.

As I move around and watch what is written on the Website and occasionally, the letters to the Editor, and sometimes what comes up as subjects on the talk show, I have to remind myself that there must be something good about the birth of the United Democratic Party because never in the history of mankind since Prometheus stole fire from the gods and gave it to men has such a furore come about, than that which came about at the announcement of the United Democratic Party and the formation of this Government.

This is a parliamentary democracy. There is scope for a healthy robust Opposition but that Opposition must be constructive and must be prepared to offer constructive alternatives.

It will not suit the country and it certainly will not suit the Opposition if that Opposition encourages people to tear down the society and if that Opposition is consumed in idle talk about 'garrison' constituencies and 'garrison' politics. Garrison constituencies and garrison politics have no place in the Cayman Islands political arena. We must labour as we have laboured in the past in a constructive and united way—the Government to lead and the Opposition to hold the Government to account.

There is no one so mighty and no one should be so arrogant as to believe that they have all the answers; that they are the panacea; that they must be the ones to lead this country. I want to see the clause in Adam's Will that says that these people who have for so long represented interests which were inimical to the interest of the majority of the people should continue to lead this country. I can say without fear of successful contradiction; they have no chains or shackles on Roy Bodden. They cannot call in any fa-

vours from me! And I doubt if they can call any in from any of my other colleagues in the UDP.

The Cayman Islands for the first time in its history has an opportunity to move forward confidently. Not since the 1950s and the formation of the National Democratic Party have we had a greater opportunity to move forward in a Westminster style democracy together. I am convinced that this is our future. This should be the legacy we leave for those who come behind. This should be the tone we set instead of wasting time on divisive politics talking about nonsense, which exists in other jurisdictions and have torn other people down.

Let us build upon our unique Caymanian history and our unique Caymanian psyche and move this country forward. The Government is positive, we are united, we are coherent and we are doing the very best that we can.

In this Legislative Assembly the challenge is for all Honourable Members to play their roles and so it is not accurate, nor is it true to say that there is nothing to excite in the Throne Speech. There is much to be excited about and the only people who cannot get excited must be ghouls; they must be soul-less because those of us who have souls are excited. We are prepared; we are ready to work and to move forward. There is much that is positive in this country; there is much that is positive that the Government is doing. As I said, we have confidence, the chart is clear. We have a direction in which to take the country and it will be done so in a democratic and participatory way.

Madam Speaker, I have made my contribution and I have given account of my stewardship. I have stated the direction in which I would like to see the Ministry go. I want to end by saying that I am totally committed, ever faithful, firm and strong in my belief in my place in the Party. I am glad that history has afforded me the opportunity to be part of a progressive movement before my time in these hallowed Chambers expends. I will continue to promote the interests of the United Democratic Party because it is the only way for the Cayman Islands at this time. Those Members of the Opposition who are like Rip Van Winkel, asleep and cannot see this, that is to their detriment. Thank you.

The Speaker: Thank you, Honourable Minister. We have approximately seven minutes remaining. Is it the wish of the House for the debate to continue? Or is it the wish for adjournment?

Does any other Member wish to speak? Last call, does any other Member wish to speak? If not, I would invite a Member from the Government Bench to make the concluding remarks.

Hon. W. McKeever Bush: Madam Speaker, the consensus on this side seems to be that we close the debate, so I am going to proceed to do that.

The world is changing and the Cayman Islands find themselves having to make changes to contend with the effect of globalisation. I have listened to the speeches from Members and I can congratulate and thank Members from this side, Honourable Minis-

ters of Government and other Members who spoke, because they took the time to go through the Throne Speech and deal with the problems of the country.

I listened to what the Opposition had to say and I found it so hard to believe that Opposition could base their debates on assumptions and rumour. While I was disappointed, I should have expected something to that extent because when we went through the change in November and I listened to what the Opposition Members said and saw how they acted, I knew that the venom that came across then would not change.

We had an Opposition who voted in block against the entire Budget—all the things needing to be done to schools and hospitals; all the initiatives; all the Civil Service matters even to Civil Service pay, including their own pay they voted against. I realised at that time that we had an Opposition that was going to be vicious, that was going to use any measure they could to tear down the Government.

This is not about the UDP; this is about the Cayman Islands. I have been in the Opposition before and I have had to use my Standing Orders, I have had to deal with the various matters before the House and issues affecting the country. There were bitter fights and bitterness to some extent still exists in some quarters because of the Opposition of previous years. That is true but...

Moment of Interruption

The Speaker: Honourable Leader, we have reached the hour of interruption. Would you please move the Motion for the adjournment?

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, I move the adjournment of this Honourable House until tomorrow Friday, 1 March 2002 at 10 am.

The Speaker: The question is that this House do now adjourn until tomorrow, 1 March 2002 at 10 am.

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

Ayes.

The Speaker: The Ayes have it. This Honourable House stands adjourned until the 1 March at 10 am.

At 4.31 pm the House stood adjourned until Friday, 1 March 2002, at 10 am.

OFFICIAL HANSARD REPORT
FRIDAY
1 MARCH 2002
10.19 am
Eighth Sitting

The Speaker: Good morning. I will invite the Second Elected Member from the district of George Town to grace us with Prayers.

PRAYERS

Mr. Alden M. McLaughlin, Jr.: Let us pray.

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

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

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

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

Proceedings resumed at 10.21 am

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

The Speaker: Thank you. Please be seated. Proceedings are resumed. There are no messages or announcements. Madam Clerk.

**QUESTIONS TO
HONOURABLE MINISTERS
AND OFFICIAL MEMBERS**

The Speaker: The Elected Member from the district of North Side.

Question No. 8

Deferred Thursday 21 February 2002

No. 8: Ms. Edna M. Moyle asked the Minister responsible for Education, to give a breakdown of the hours per week for which each grade receives computer instruction in Government Primary Schools.

The Speaker: The Honourable Minister responsible for Education.

Hon. Roy Boddan: Madam Speaker, all Government Primary School children have access to computers, mainly through the provision of well-equipped computer laboratories, and some schools have additional equipment in classrooms. These computers are available for use by all grades under the supervision of classroom teachers.

Additionally, the Education Department provides two peripatetic Information and Communications Technology specialist teachers who visit all primary schools on Grand Cayman on a weekly basis. As this service expanded during the past two years, the need for a third teacher became apparent. However, budgetary restraints have not permitted the employment of this person.

Consequently, not all pupils in Government Primary Schools receive instruction from these two teachers. Each school principal has the responsibility for deciding how best to deploy these teachers. The number of days (or half days) each school is visited is based on the school's population and is as follows:-

John A. Cumber Primary School: Two days per week each class gets one 30-minute lesson per week, apart from Year 1. In term 3, Year 1 will get one lesson per week and Year 3 will be taught, where possible, by classroom teachers who are capable of continuing the program.

George Town Primary: Two days per week—Each class gets one 30-minute lesson per week, except Year 1.

Red Bay Primary School: Two days per week—Apart from Year 1, each class gets one lesson per week of 30-40 minutes duration depending on grade level.

Savannah Primary School: One day per week—Some grades at this school receive instruction on a rotating basis. From September to mid-January, Years 1, 2, 3, 6 and the Learning Support Unit got one 30-minute lesson per week. From January until July, Years 1, 4, 5, 6 and the Learning Support Unit get one 30-minute lesson per week. The decision on which classes rotate was taken by the Principal, with the IT teacher recommending that Year 6 have access to the program all year round to ensure a smooth transition to George Hicks High School.

Bodden Town Primary School: One day per week—Apart from Year 1, each class gets one lesson per week of 30-40 minute duration, depending on grade level.

East End Primary School: One half day per week—Apart from Year 6, each class receives one 30-minutes lesson per week. Year 6 has one 40-minute lesson.

North Side Primary: One half day per week—Apart from Year 6, each class receives one 30-minutes lesson per week. Year 6 has one 40-minutes lesson.

Lighthouse School: There is one teacher specifically assigned for the management of Information and Communications Technology (ICT). No direct departmental support is provided for this school at this time.

Basic technical work, for example, setting up the network and workstations, and software installation, is provided outside school hours on a time available basis. All classrooms have computers, in some cases with specialised keyboards, and instruction is provided by the classroom teachers.

Cayman Brac Primary Schools: Cayman Brac Primary School pupils have received no visits from the peripatetic teachers. This is simply due to no funds being available for the teacher to visit those schools. Once funds are made available, the teacher will be scheduled to visit Cayman Brac once per month. This will correspondingly reduce the time the teacher spends in Grand Cayman schools. Recently, the ICT Specialist spent one week in Cayman Brac assisting with technical support. One school PTA (Spot Bay) offered to pay for the ICT teacher to spend a week at that school, but this has not yet been taken up.

Little Cayman Education Services: The teacher in charge is ICT competent and there are plans to strengthen this area in Little Cayman. There is one computer with Internet access at the facility. A computer which has been donated by a private company through *The Computer For Kids* Program is due to be installed within the next fortnight.

The Speaker: The First Elected Member from the district of George Town.

Supplementaries

Mr. D. Kurt Tibbetts: Thank you.

Can the Minister state if given as the substantive answer says, that the schools with smaller enrolments are the ones which receive less time from these two teachers is due to the fact that the time allocation is given on the basis of the number of students in the school?

The Speaker: The Honourable Minister responsible for Education.

Hon. Roy Bodden: Madam Speaker, I believe that that was stated in the answer.

The Speaker: Are there any further supplementaries?
The Member for East End.

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

Can the Minister tell us, in today's technological age, if it is the Government's plan to have a fulltime computer teacher on staff in all of our primary schools.

The Speaker: Honourable Minister of Education.

Hon. Roy Bodden: Madam Speaker, since assuming the Ministry I have made it clear in one of the five objectives I have set out for the Ministry of Education that it is the intention of the Government and the Ministry to make every child in the Government schools in the Cayman Islands, certainly by the time they graduate from the high schools, completely computer literate. I inherited a situation where rudimentary technology has been put in place and there are strides to improve the access. It is the situation that I can say I certainly am not satisfied with in a technological age, but I understand the contingencies and the constraints governing the complete access to information technology by all of the students.

That is why yesterday in my contribution to the Throne Speech I said that I have initiated discussions with IBM with the view towards, firstly conducting an audit to see exactly what is needed to make computers available to every student from primary schools in the government system, and what programs would be recommended. Then try to ascertain a costing of this so that we can be completely computer literate by providing each child with access to computers, not only during a half hour or a 40-minute or a 1 hour period once or twice per week, but it would be common place with the ideal being that each child would have her personal PC.

The Speaker: The Member for North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. Could the Honourable Minister say that the Savannah Primary School, in particular the grades, 1, 2, 3, 6 that receive computer instructions from September to mid-January do not get any instructions again until September the following year?

The Speaker: The Honourable Minister of Education.

Hon. Roy Bodden: Madam Speaker, I cannot say that that is the case because the school has a computer lab which would be available to those students under the supervision of the teachers. What may seem obvious is that they do not get the instructions of the peripatetic computer the ICT teachers. That decision was once taken by the Principal I am sure (I would hope) after discussions with her staff and the ICT people.

The Speaker: The Elected Member for North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. Would the Honourable Minister say if he is in a position to tell the House how many of the teachers at these primary schools are computer literate and are going to the computer labs with these children for more computer instructions?

The Speaker: Honourable Minister of Education.

Hon. Roy Bodden: Madam Speaker, I do not have a specific breakdown of the number of the teachers in the schools who are computer literate. I could undertake to provide that information to the Honourable Member. What I can say is that some of the teachers are eminently equipped to supervise and to instruct on their own in the absence of the ICT peripatetic teachers. I will undertake to get the specific details requested by the Honourable Members in her question at a later date.

The Speaker: The Elected Member for North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. Could the Honourable Minister say if he is in a position to say how many computers are in the North Side Primary School lab and how many students are there in each class?

The Speaker: The Honourable Minister responsible for Education.

Hon. Roy Bodden: Unfortunately, I am again unable to provide that information at this time because I did not anticipate that it would be a part of the supplementary information requested. I can undertake to have it for the Honourable Member next week.

The Speaker: The Second Elected Member from the district of Cayman Brac and Little Cayman.

Mr. Lyndon L. Martin: Thank you, Madam Speaker. In reading the part of the answer referring to the lack of visits to Cayman Brac Primary schools, I was wondering if the Minister could give a commitment to liaise with the computer technician at District Administration to see if he would work in conjunction with the ICT teacher in Grand Cayman, and hopefully provide some

service to the schools on a regular basis. This matter has been discussed with myself and the ICT teacher when he was on the Brac for the week and he supported the idea. I also mentioned it to the technician at the District Administration Building.

The Speaker: Honourable Minister responsible for Education.

Hon. Roy Bodden: Madam Speaker, I certainly would have no objection to exploring that as an avenue to boost the exposure of the Brac primary schools children to Information and Communications Technology. Indeed, I would be happy to do so. I think it is two recent university graduates from Cayman Brac, both of whom are working on the Brac and whom I believe would be willing to provide that information. I thank the Honourable Member for that suggestion and I certainly will be pursuing with at his concurrence.

The Speaker: Are there any further supplementaries? The Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Earlier the Minister spoke of his hopes and his goals that every student in this country should be computer literate by the time they reach high school. Can the Minister then tell us what his time frame is for ensuring that our children are computer literate within a short time period to put the provisions in place to ensure that what his time frame is . . .

The Speaker: Honourable Minister of Education.

Hon. Roy Bodden: Madam Speaker, first of all I want to clarify that I did not say it was my hope and dream; I said it is my stated objective. The time frame is incumbent upon the audit which we have contracted with IBM to do. IBM has requested in that audit details of hardware, software, programming and costing. I would hope that well within—if we accept the proposals of the results of the audit which IBM has contracted to do—the next two years we can be on the road to this.

However, I would caution that it is a matter which is not entirely in the hands of the Ministry since the proposals would ultimately have to go to the Executive Council for its approval and probably come to Finance Committee if we accept the terms and conditions of the financing that IBM laid down. I would certainly anticipate that well within the next year we should know what we are going to undertake to do. Arising out of that IBM will be able to give us a timeline so that we are in a position to detail exactly when this computer literacy objective could be achieved.

The Speaker: The Elected Member for East End, do you have a follow up? Please continue.

Mr. V. Arden McLean: Thank you, Madam Speaker. Keeping in mind that I am not very computer literate

but the Minister just spoke to the review being done by IBM. I recall from somewhere that there is a policy or a position that primary schools in this country use APPLE computers. I am just wondering if the Minister can say if there are any differences in those two and if the intent is to change to IBM in the primary schools?

The Speaker: Honourable Minister of Education, I think that takes somewhat out of the scope of the question but if you wish to respond, please proceed accordingly.

Hon. Roy Boddan: Madam Speaker, I too am aware that many of the primary schools have Apple computers and I made no dogmatic statement of any changes. Certainly, it is a matter that we have muted with IBM. I do not think the intention of the audit is to be disruptive and to be wide-sweeping; we are well aware of that but in the world of computers there are such things as compatible programs. So, there are other makes of computers called 'IBM compatible'. Nor, did I say that we are going to be using IBM equipment, for what is important in this exercise Madam Speaker, is not the hardware but indeed the compatibility of the programs which are going to be recommended.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. The Honourable Minister stated in a previous supplementary answer that within the next year the Ministry should have a handle on the way forward. During that interim, can the Minister state if there is any intention to fill that third position of the peripatetic teacher that because of financial constraints did not allow to be hired this year?

The Speaker: Honourable Minister of Education.

Hon. Roy Boddan: Thank you, Madam Speaker. The First Elected Member for George Town being the former Leader of Government Business will know as well as other Honourable Members in the House that we really face some financial constraints and the bureaucracy has been increased in terms of forms you have to fill out, persons you have to convince if additional staff is to be taken on in the Civil Service. Madam Speaker, I would suppose that it would not be impossible to get that third post filled and it will quite rightly depend on:

1. The demand and whether an assessment is made that our children are being severely disadvantaged as a result of the need for a third person in the first instance. And that does not appear to be the case now.

2. It will also depend, to an extent, on what is contained in the results of the audit that IBM has been contracted to do.

The Speaker: The Elected Member for the district of North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. Would the Honourable Minister say if the lack of a third peripatetic teacher is not affecting the Cayman Brac primary schools' pupils who have received no visits from those teachers?

The Speaker: Honourable Minister of Education.

Hon. Roy Boddan: Madam Speaker, certainly there is effect. I said there was no detrimental effect because in the case of Cayman Brac it is my understanding that there are classroom teachers who are quite capable of offering computer literacy and computer teaching in the schools.

The Speaker: If there are no further supplementaries, we will move on to the next item.

GOVERNMENT BUSINESS

Debate on the Throne Speech Delivered By His Excellency, Mr. Peter J. Smith, CBE, Governor of the Cayman Islands, Friday 15 February 2002

(Continuation of debate thereon)

The Speaker: The Honourable Leader of Government Business continuing the debate on the Throne Speech.

Hon. W. McKeever Bush: Thank you very much, Madam Speaker.

Yesterday afternoon when I started my contribution I noted the behaviour in this Honourable House by Members of the Opposition. I have entitled the contribution 'Vision, Accomplishments and Falling Arrow' because this Government (the UDP) has a vision. We have put that vision into workable plans and policies that will affect our people positively, and we have accomplished in these past 100 days—and while the Opposition has shot their arrows they have fallen. I can report that no damage has been done.

Before I move on I just want to take a few minutes to say that the Ministers of this Government are all doing what I think is an excellent job in each respective Ministry. The Minister of Education is a very capable person and we can see the results of his vision. The Minister of Communications and Planning is more or less a veteran and has been here before and has taken up the challenges and moving on areas that people would not touch before, but certainly that the country needs to hear about and needs to see changes in. However, I have to report to this Honourable House that the two new Ministers (Minister of Health and the Minister of Community Services) are really two good choices. I must say that their performance in the Executive Council is most commendable where everything is conducted in a most business like manner. I am glad to have them as Ministers because they are equal to the task before them and they are proving it to the country.

So, we work as a team and we are doing our best given the circumstances. I also would want to say to you as Honourable Speaker of this Honourable House how much I have admired your performance. You are fair and you are not treating anyone differently. I am certain that Members in the majority here can say that this House is being run in the fashion given the circumstances at times. I want to thank you for the way you endeavour to conduct business. At the same time I would like to—because while the Clerk (former Deputy Clerk) is not new to the Chamber and the new Deputy Clerk now, while not new to this Legislator they are new in these positions and are carrying out a commendable work. At the same time all Members of the UDP in this Honourable House, those on the Back-Bench are taking the work and while some people might not like what they say at times or what the UDP stands for, these Members are honest and working. I have never seen a Back-Bench so eager to work than they are. Madam Speaker, your colleague, the Second Elected Member for Cayman Brac and my three colleagues from West Bay are to be commended.

The Opposition, however, is engaged inside and outside of this Honourable House in gigantic propaganda drama of destructive misrepresentation. They are aided and abetted by vicious and unbalanced talk show where the daily dose is nothing but vitriolic attacks by persons of small venomous minds. I can say that I have proven in my life that strong criticism disappears when the facts catch up with lies. You can believe there has been a lot of that on the talk shows, the *Caypolitics* dirt and front-page rumours. The Opposition seems to be having a grand time doing what they do best . . . nothing! For I ask them and I ask the Second Elected Member for George Town and the rest of the Opposition, show me what they have accomplished for the country since they have been elected this term. Show me what they have accomplished for the people of the Cayman Islands since they have taken up their seats as Opposition Members and, in fact, for last year.

Let me deal with this constitutional matter of a five-year term—what I said in the cross talk is that I cannot wait until 2005 to face them. I would hope to get rid of them and I think the words ‘before 2004’ came in, but the next election was somewhere there about. They say that is a threat. Where do these people think they are going and what do they think they are doing to this country? A threat to campaign against them and assist in helping them to lose their seats! What else could I have meant? There is nothing else that I meant—let me get back to this five-year term. The Constitutional Commissioners were not put in place by the United Democratic Party, nor did I as the Deputy in the last Government of 2001 have any part to play in their appointment, nor are they my supporters or supporters of the UDP. At least two of them were, or are great supporters of the First Elected Member for George Town and the Second Elected Member for George Town. The third one ran against me in the district of West Bay.

I have not seen any report they have made nor do I know what is contained in the report, but already you hear whom it will affect and why it will affect them. As I said they are neither McKeever Bush’s supporters nor the UDP’s supporters nor did I as Deputy have anything to do with their appointment! When the report comes to Members of this Honourable House the UDP then can make its decision on what we would want to see in the Constitutional modernisation that the United Kingdom says must take place. I am not going to do what the Second Elected Member for George Town did in his speech. How could the debate have any integrity when the debate is pure conjecture, rumours and assumption on his part? It was a disgusting attack on a system that does not even exist in this country. But I am not surprised.

I heard them talk about (in his speech) politicisation of the Civil Service and that senior civil servants were asked to step down and a system free of victimisation and devoid of patronage. What kind of patronage is he talking about? I would suggest that he go back to last year and examine the records for Planning and Environment Departments and they might see where patronage lay. There is none carried out by the UDP other than to do what is right by the people of this country who have been suffering too long under certain circumstances, and we are doing it in a democratic fashion.

The privilege of this Honourable House while it ensures the freedom of speech and debate does not give any Member of this House the licence to do the kinds of things that I saw being done here the other day. Political language from any Member which is designed to make lies sound truthful and to give an appearance of expressing an opinion on matters before this Honourable House is pettifogger and danger as far as I am concerned. Rumours are not based on any true knowledge; mere gossip mongering in the disguise of debate is not the way to move forward together to conduct the people’s business and develop the fledgling democracy that the Second Elected Member for George Town speaks about.

The Second Elected Member for George Town talked about the need to move to a system of more disciplined and predictable politics. I agree with him on that admission and that is why the group that forms the UDP formed it. All the people need to know who will be the majority, who will form the Government, who will be responsible for policy, who will be responsible under our Constitution for the people of business? Perhaps some on the Opposition wanted to continue to wear, as someone termed it, ‘friend-friend; politics and ‘turtle meat and breadfruit’ politics so that we can have the chaos that existed after the election last year. I will not any longer serve under that kind of system because it does nothing for the people of this country. What it does is force people to join with people to get out and tell them, ‘*Well they did not like me in the first place*’. Because that is what the Second Elected Member for George Town said on the 8 November.

The Honourable Ministers in this Honourable House under our Constitution are responsible collectively and individually to lose his or their offices if they cannot retain the confidence of this Honourable House for the general policy of the elected government. This responsibility can be enforced by the Members of this Honourable House by Motion and direct vote of censure or want of confidence. This is the law as prescribed by section 6 and section 9 of our Constitution. That is what our democracy dictates regardless of who likes it. The UDP Members in this Honourable House intend to apply and will continue to apply the Westminster system of democratic constitutional government as has always been the procedure in this Parliament, not some other system, not what may be done in some vague and questionable constitutional practice in some other just as vague jurisdictions, but what is law and practice under our Constitution. That is why under the principles of our Constitution that the Second Elected Member for George Town says that he accepts there is an obligation for a Minister to resign his office when he loses confidence of his peers and not to get up and encourage marches and demonstrations. That is a system of more discipline and predictable politics that the Second Elected Member for George Town speaks of.

To introduce rumour; non-factual spin and then to blame the Government as the proponents of the concepts on which forms the basis of the rumour is not only un-parliamentary; it is not grasping the marvellous opportunity to make the mistakes as experienced by the rest of what the Second Elected Member for George Town call it the 'Anglo-Caribbean'. Is that what we want to have in here? No.

The business in this House since the 8 November 2001 has been done by the Government as efficiently and constitutionally as could be under the circumstances we face with effective elected colleagues, what was done on the 8 November 2001 was, in my opinion, to remove ineffective colleagues without bringing about the fall of the entire elected Executive Council which our Constitution allows. The United Democratic Party—and much has been said about it by two Members who spoke from the Opposition—does not relegate all the people's business to a mere game concealing the true bigger picture of the plight of all the people.

The UDP legislative Members do not and will not hide behind a smoke screen of words that we do not mean. One does not denounce tribal politics then ostracise themselves from their colleagues and refuse to shake their hands. One does not believe in political inclusiveness then perpetuate animosity. One does not believe in constitutional modernisation then become bitter and remorseful and dirty when one loses the confidence of their colleagues. What is factual is that some Members of the UDP in this Honourable House receive no respect or friendship from some Members who are now in Opposition but during last year and before the 8 November.

I ask only one thing if my colleagues in the realm of rumours which may be enjoyed by some do not bring it here and debate it and make it as the truth because it makes a mockery of our parliamentary process. They are running around saying, '*Where is the Leader of Government Business, where was McKeever*'. I will tell them where McKeever was. He was busy conducting all the people's business. Or, I was at home tending to my family, or I was in my constituency working with the people.

As for rumours, I said to some of them already on the Opposition benches that they had better be careful because they live in glass houses and you know what they say about people who live in glass houses? They should not throw stones. I have also told them that they are not lily white. So, you let them continue down the road that I saw begun here. As I told the Second Elected Member for George Town I have been here long enough and I could see by the cut of their jib that they mean us no good. [*inaudible comment*] Well, I had that notion when we begun . . . make it rest. I had a notion, vision, accomplishments and falling arrows. It is time the people of this country—and it is not the majority, it is a few when you count the people you hear on the radio and you know what they say? They want the UDP to fire them. We have no authority to fire anyone. You know what else they said? "**I bet the UDP put pressure on us then I can win my seat in George Town easily**". That is not an elected Member saying that now; that is a Member of the press. This is where it has gone. They do not care what is printed on *Caypolitics* or they do not care what is said on national radio, when it should be to educate, in an intellectual way, the people of this country. To answer questions but to get up there and—I have heard . . . it goes worse than a committee because in Committee we can debate on matter after the next and we can speak several times.

I have seen a radio show where someone calls up and say something and then someone calls up and rebuts it and he calls back again. Talking all day long to hear themselves. Some of them call themselves Christian. My God. Especially the one who cries so often. As a politician I can be criticised and I believe that anyone who puts themselves in the public realm and offers themselves for public service will be criticised and I accept that, but what is happening on *Caypolitics* and on *Radio Cayman* is downright dirty. They have no regard whatsoever. I have been in Opposition and I have been on the streets, but why did Roy Bodden and I go on the streets? We went to remove a corrupt commissioner. Why did we move in the hundreds? Because the people told us they did not want certain expenditures made and they did not want Motion 3/90.

I have stood on the floor of this House and have expounded my belief in things but look at what it got us. All of that is in Government today, look at the things which we have accomplished. I end at this part of my speech by saying to the Opposition, show me what you have done for the people of this country since

you have been elected. Show me what you have accomplished for the people of this country since the Opposition has been elected.

For clarity the Third Elected Member for Bodden Town has said he is not a part of them, he is no part of any Party.

The Speaker: Is this a convenient time for the morning break Honourable Leader? We will suspend for the morning break.

Proceedings suspended at 11.08 am

Proceedings resumed at 11.30 am

The Speaker: Please be seated. Proceedings are resumed.

Continuation of the debate of the Throne Speech by Leader of Government Business.

Hon. W. McKeeva Bush: Thank you, Madam Speaker. The economy of the Cayman Islands is dependent on the service it provides in two main sectors for its well-being and viability. As we all know the two engines; the financial industry and the tourism industry are the spawning bids of all activity from which our people earn a living from Government gains revenue to provide essential services such as education, health care, social benefits, law and order and other services necessary for the proper working of a democratic free market society.

We as a people have been faced with substantial challenges which have been struck at the roots of the engines of our economy. The very unfortunate events of the 11 September and the aftermath have caused the economies of major developing countries to slow. This has not only affected travel but has had repercussions which have spread into all areas, including global investment policies, employment and capital mobility. This event and its repercussions came on the heels of European based initiatives aimed at reducing the competitiveness of free market economies and which was directed at Caribbean based financial centres and others. Most of these financial centres were too small and ill-equipped to address on the scale needed, the various non-governmental organisations that launched these various initiatives. The unfortunate result of the turn of the events has been a significant reduction in activity in the two main sectors of our economy somewhat, which the country relies upon to create economic activity.

These problems have focused attention on the reality that if the business of Government is conducted in the manner in which it was in the past, the country will continue its economic decline and its people will not be able to enjoy a reasonable standard of living and to participate in the technological advances which the rest of the developed and developing world will be enjoying. We risk again becoming an Island and people that time forgot. Our Government wasted its time

and effort to rebuild the foundations of our economic well-being and I am proud to report that all Ministers of Government, together with many members of our dedicated Civil Service, have worked many long hours and more than often late into the night to plan, develop and lay a new foundation which is already having very positive effects, and which will be a spring board for our future advancement.

Let me offer a challenge at this point to all our people, citizens and residents alike to join this effort. As the Leader of Government Business, I am committed to this cause and committed to making decisions after examination of all facts and obtaining the people's input, which are for the long term benefit of our country and our people albeit that some may not agree with them at the time they are made.

I now turn to certain specific areas of our economy.

The Tourism Industry

As Minister I can say our Government as a whole has supported me in working to improve our product to add excitement and to ensure that we are offering value for money. We will continue to work with the private sector, roll up the red tape and roll out the red carpet to focus our marketing efforts, make it easier to operate and to save money by acting to cut wastes where it exists. New working relationships with the private sector are being developed and these can only result in a better product. I challenge each and every person, our Immigration and Customs Officers, our taxi operators, our water sports persons, other tour operations, workers in the rooms and the man on the street to become ambassadors of the Cayman Islands, to make every guest feel welcome and make every person leave this Island with a burning desire to return. Send the message that no place on earth exists where they could better enjoy their holidays, made to feel more at home or experience friendlier, warm treatment. The importance of the benefit of this effort cannot be over-emphasised, and this together with the work being done by Government will have immeasurable positive benefits.

We have secured a loan for the improvement of our cruise ship dock facilities from the various cruise ship companies. These facilities are essential for the long-term viability of our cruise ship tourism product and for the continuing ability of our people on all sectors from taxi, water sports and merchants to be to earn a living. Sight must not be lost that events point to a falling of the relationship between Cuba and the United States of America.

While we wish all the Caribbean the best for their own industry we must be prepared to meet the competition and offer a service which is better than the rest. We must improve our entertainment facilities and move into the 21st Century rapidly in that regard. To have a viable market, one must have a product for which there is demand and the product must constantly change to meet the demands of the market place. Fail-

ure to recognise this elementary principle will result in us having a product for which there is no market and the country and our people will experience a significant decline in their standard of living.

At a national level the tourism industry in the Cayman Islands has benefited from the Government's sustained focus on the challenges and issues facing this pillar of the local economy. The restructuring and the rebuilding of the professional infrastructure initiated in 2001 will help to re-tool the existing tourism organisation to make it better able to meet current responsibilities and market challenges while saving this country money.

I am reminded that the Opposition had said that there is nothing in this Throne Speech to be excited about. The key building blocks are already in place including the following: -

- The successful recruitment of business executive with extensive travel experience,
- The restructuring of the US Department of Tourism,
- The successful negotiations to relocate from costly leased accommodations in Miami and the move of the National Office to New York in order to better position the destination to attract business for the number one US metropolitan market for our local tourism.

At the first annual tourism conference which replaced the former Department of Tourism annual general meeting, as Minister of Tourism I continued my commitment to open and regular communication and reporting by incorporating the views of the past year and outlining the goals and operational expectations for the upcoming years.

In December 2001 new US Agencies for advertising and public relations presented the first draft of the 2002 Summer/Fall program to the private sector for its review. In January the new program, *H2Go Cayman Islands*, was unveiled in Cancun. This is an improvement to have our summer program ready and exposed to certain markets. This is an improvement over previous years. Already this year, as the new Director of Tourism shared with the Cayman Islands Tourism Association at its quarterly general meeting this month, the Department is moving to earn back market share by ensuring global strategic marketing programs are in place and are being executed. Most importantly, building (and the work done) over the last six months, the Department is striving to earn back the confidence of the industry's private sector and local community.

This year Cayman which has the world's only international Scuba Diving Hall of Fame inducted five of the most influential people in the field and received international recognition for her efforts. Earlier this month the Department of Tourism in collaboration with its partners in the private and public sector was pleased to be able to support and assist in the execution of the *Cayman Cares* program in response to the 11 September tragedies. This program which had three main components; the vacation for New York Fire Fighters and their families, the visit made by Caymani-

ans to New York City and the check presentation were brilliant examples of what public and private sector can make happen for the destination when we work in unison and put the Cayman Islands first.

I would like to take this opportunity to commend all parties for a job well done, particularly, in the *Cayman Cares* committee and those generous sponsors who made this event possible.

On the 6 February the Department of Tourism updated the industry on the progress of the Summer and Fall program and at this stage both DoT and private sector are working to proof material and collateral before sending to production. At the end of February despite numerous set backs the Summer program is 90 percent complete and has deemed so innovative in its creative differentiation that the *H2Go* program has already received special mention in the leading brand magazine, *Brand Week*, over-shadowing the work of other regional destination and even the Caribbean's regional advertising campaign. That is a sign that the Government is on the right track and being noticed by industry observers. Throughout this current work process, the Department is gearing up for the Winter 2003 when concerns over US economic recovery and the war on terrorism are forecasted to have been sufficiently settled for there to be some meaningful recovery in the international tourism industry.

The Director of US Marketing and Sales has already begun preliminary stages of a re-branding process and consultation with other regional managers. This process will involve local consultation at the discovery, analysis and planning stages, then regular updates by the Director as she spearheads the DoTs country teams and agencies who will work to develop the specific market by market plans to execute the new brands strategy. The goal is for a re-launch in September in advance of the winter 2003 season when we plan to stage an aggressive comeback in the market place.

Madam Speaker, goals for the Summer campaigns are as follows: -

- Position the Cayman Islands as an attractive travel destination.
- Create incentives and time-sensitive reasons for travelers, trade and media to learn more about the Cayman Islands and differentiate the Cayman Islands from a cluttered competitive environment.

While the *H2Go* campaign is not the new marketing strategy or our brand identity it is the bridge campaign for 2002, as agreed by the Tourism Action Committee back in August 2001 with the interim Director at that time. This program is not a price-based or discounts driven program but does focus on offering Cayman's trademark. That is a high quality experience. With the renewed effort and vision, positive results are beginning to show. Again I draw Member's attention to the Opposition's statement that there was nothing to be happy about in the Throne Speech. Things were so happy in the Throne Speech that the Leader of Opposition forgot that he had to speak. And his deputy, the

Member for North Side, forgot that she also had to speak and they never spoke because they could not counter what was in the Throne Speech.

The latest statistics showed that tourism in the Islands is on the rebound. For example, the average occupancy rate for hotels and condos in January this year was 49 per cent, which rose to 54 per cent in February and is projected to rise to 55 per cent in March. In such challenging times, even modest increases such as these are positive indicators. This is particularly true as in the past three years, tourism figures have been on a downward trend, and this is, 1999, 2000, and 2001 according to the occupancy statistics provided by the Cayman Islands Association.

So, while the 11 September had an effect, as we all know, tourism was already on a decline in the country and the statistics from the Tourism Association says so. In addition, that we can say positive things are happening, my Ministry has already increased airlift with the recent addition of ATA and coming in directly on a schedule flight from Chicago, not to mention Air Canada. We are actively pursuing with major US carriers additional direct service from the New York metropolitan area. So, we have taken a big lick. We can say that we are not building with bricks and mortars but we are putting in systems and programs in place that will benefit the country in the long term.

What we have to ensure is that when tourism goes back to the level we want it—and in the interim period that our people employed in that sector. The Minister of Human Resources is paying careful attention to that matter and we have said to the Immigration Board that when permits are being asked for—we are not against permits being given—they must ensure that our people are given the opportunity in this important industry. The sister Islands tourism is doing well and as far as occupancy and programs are concerned, it is well managed. We do have a problem, in that, Tiara Beach is given some notice of closure but we have always had trouble with Tiara Beach. Madam Speaker, it is not new but we have to take matters into our hands and I know that yourself and the Second Elected Member for Cayman Brac are very concerned about it and have taken steps to the point of inviting people there to look at it to see whether it can be re-developed. That was a good move on the part of the Second Elected Member, and the Speaker who is the First Elected Member from the sister Islands. Generally, tourism in the sister Islands is doing well.

The Cayman Port Authority

Since the tragic events of the 11 September the major cruise lines have re-deployed their vessels from the Mediterranean Sea to the Caribbean to create cruising comfort zones as passengers have expressed a preference to remain close to home—that is a fact. This has resulted in increased requests for Port calls to Grand Cayman for the year 2002. Consequently, the Port Authority is pursuing a means of properly developing its facilities to meet the demand and maintain

Cayman's reputation as a first class cruise destination. After reviewing the plans to increase the size of the present cargo facility in George Town, the Port Authority Board made a decision to redirect their focus on expanding the present cruise tender facilities.

A local architectural firm was contracted to design a new cruise tender terminal at the present site of the Watler Building on North Church Street to upgrade the existing and South terminals and to repair the damage cargo finger pier. The new terminal will be named the Fort Street Terminal and provides adequate space off the street for buses and minivans to park. This redevelopment will bring the total complement of tender facilities to three. The design for these facilities incorporates Caribbean architecture and allows for the unimpeded flow of passengers to and from the terminals.

Financing for the redevelopment of the George Town harbour is being provided by the Florida Caribbean Cruise Association up to a value of some \$10 million. Construction is expected to commence by mid 2002 and the new terminal will be ready for operation for the commencement of the winter season 2003. Again, I would like to thank my colleagues, the Elected Members of West Bay, the Second Elected Member for Cayman Brac, the Port Director and the Permanent Secretary who have been on these negotiations for several months now, and from last year in fact, for some of them. They were successful in gaining this agreement from the Florida Caribbean Cruise Association.

I hear that the Opposition is making much of it. They have not come out yet, I suppose they will send some forerunners either on *Caypolitics* or on the radio but I consider this a milestone for the Government. Also, included in this is an opportunity to have cruise ship into West Bay. This is not yet finalised but they have agreed to fund the development there. This is all good for the country and some of these achievements are blatant to the Opposition and that is why they are out there pounding and pounding on every area they can, because they see some optimism in the country. They see what is happening in the United States and therefore, they understand the United Democratic Party and this Government will turn things around and put our people back to work and bring investment. And so, the Opposition does not want that to happen because they will not be an alternative government.

In April 2002, the Port Authority plans to launch a new computer system that incorporates all of its daily operations. The system integrates all accounting features, container tracking, cargo delivery, vessel tracking and cruise ship scheduling.

Much has been said in relation to recent proposals about our commercial dock. Let me take a moment to set the record straight. Our belief is that the commercial dock facility has been outgrown and such facility is best relocated to an area which is remote from the cruise ship facilities and out of the centre of Town where George Town can be better utilised as a

beautiful city; more properly planned where we can maximise road usage and pedestrianise certain areas.

A proposal from a private group was put forward and subject to studies which are being conducted on its viability from all aspects including the environment, a decision will be made after the necessary public input has been sought. No firm decisions have been made in this regard and when Members in this House or otherwise stand up here and try to make the people believe otherwise they are not doing any justice to the system and to the country. They are not even doing any justice to themselves when they dare go on public platform and say that they were not informed. The first time I heard about the East End site was a plan that was shown to people for aggregate because the aggregate study was saying that it must be moved out of George Town and out of the cargo dock. The Member for East End was one of those Members who saw it, and he did say to me at the time that he would support a situation of a dock in East End . . .

Point of Order

Mr. V. Arden McLean: Madam Speaker, on a point of order.

Hon. W. McKeever Bush: Madam Speaker, I would appreciate if the Member allowed me to finish making the statement and I will give way after that.

The Speaker: Please continue.

Hon. W. McKeever Bush: Madam Speaker, he then said that he would first want the public of East End to be consulted but he would want development in the area so he would support that facility—firstly was talked about anyway was a dock facility for aggregate.

The Speaker: The Elected Member from the district of East End would you kindly state your point of order.

Mr. V. Arden McLean: Thank you, Madam Speaker. The Minister is misleading the House and the public because I did not give any commitment to anyone on any dock East End. He did not show me any proposal, the Government did not show me any proposal and the private company, as far as I am aware who was proposing this thing had conception and that was it. My position to the Member and other Members including the Leader of Government Business at the time was that the people of East End must be apprised, and whatever the people of East End wants I will support.

The Speaker: Honourable Leader.

Hon. W. McKeever Bush: Madam Speaker, I did not say the Government showed it to the Member. The Government could not show it to him because the Government had nothing to do with it. The Government was being showed the dock as planned itself and I

keep my ears to the ground and as Minister responsible for the Port and Transport I should do that. I should get information but I can tell this country that the Member did see that and he did say he would support it because of the development for East End but he would want the people to have their say in it. That is what he told me.

The Speaker: Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I reiterate, I did not tell him that I was personally supporting any dock in East End. I told him the people of East End had to decide if they want a dock in East End. And if the majority of East End wishes I would go along with it. If that the supported then that is what it would be. If it is not support then it would not be supported by me.

The Speaker: Honourable Members, I have listened quite intently to both sides and I think it has been abundantly clear, although it has been said in different terminology that the Member for East End support was conditional under direction he got from his constituents.

Hon. W. McKeever Bush: Madam Speaker, thank you very much. What I am saying is that according to the *Caymanian Compass* it said that the Member said he knew nothing about a port up there and he was not informed. But I can say to this Honourable House that I have . . .

Mr. V. Arden McLean: Madam Speaker, on a point of order.

Point of Order

The Speaker: What is your point of order? Please state it.

Mr. V. Arden McLean: Madam Speaker, again the Minister is misleading this Honourable House. I said in my public meeting—and the Member must prove that I did not—I had no knowledge of any full fledge cargo dock in East End.

Hon. W. McKeever Bush: Madam Speaker, if I may. I was not at that meeting but I read the *Caymanian Compass* and if I recall

[Inaudible comment]

The Speaker: No cross-talk please.

Hon. W. McKeever Bush: Madam Speaker, I did understand what the report said and the Member said he did not know anything about it. I do not know if the *Caymanian Compass* is wrong. Maybe he could say. I think that is what the report said. That part is easy to prove but nevertheless I was not at the meeting. I

heard there were not many people at the meeting and it was not the entire East End. That is not the point because all that exist now is a concept and whether it goes wherever it goes, the people of this country in different forums will have a say. This is all I have been saying.

The Speaker: If I may, Honourable Leader. Member for East End, is it your position that you did not say a full-fledge report, or is it your position that you at no time saw any report. Could you recall from memory exactly what your position is?

Mr. V. Arden McLean: Thank you, Madam Speaker. My reply to him saying that I did not know anything about a dock as reported in the *Caymanian Compass* is that I said the Minister said that a full fledged dock was being planned in the district of East End and I was to be apprised and I was not apprised.

The Speaker: Honourable Member, do you have a recollection of what was in the *Compass*? Did you read it yourself and could you please state what the *Compass* article carried?

Mr. V. Arden McLean: No, Madam Speaker, I have no recollection of what was in the *Compass*. It appears like the Minister has a very good recollection and he has to prove it.

The Speaker: Actually, I am not seeking to get a view, Honourable Member, as the maker of this statement. Could you give me an indication as to the date of your meeting so that I can actually look up the *Compass* report myself?

Mr. V. Arden McLean: Madam Speaker, as I recall that meeting was I think the 22 or the 23 January 2002. One of those dates.

The Speaker: Thank you. I will, when I take the luncheon break, try to retrieve that *Compass* and defer my ruling subsequently. And perhaps in the interim Madam Clerk can indicate to the Hansard Clerk that I would need some assistance with locating the necessary *Compasses* subsequent to the 23rd January 2002.

Honourable Leader, please continue with your debate.

Hon. W. McKeeva Bush: Madam Speaker, the Member can twist and turn any way, the Opposition has been out there on a propaganda parade on this matter and they have been alleging all sorts of things about me as Minister and about other Members of this House. I have said what I have said in this matter that a decision will be made after the necessary input and proper procedure has been carried out. No decision has been made in this regard to put down a facility in East End. What I say is that the country is in dire need of a new dock and this is my vision. Because the coun-

try needs another arm of industry and a dock with all the facilities. Those who do not know should wait until a study is done and proposals are made for them to 'jump up and holler' and make accusations.

The Member for East End is still grumbling. I realise that he has been exposed a little bit but the truth is that Samson killed the Philistines with the jawbone of an ass and it seems like that jawbone is still working. Anyway, the Government is a Government of all the people. Despite the fact that the present representation from East End is in the Opposition and lends no support to the present Government and the UDP. We have approved the go ahead for a study on the project which if it were to be feasible would be the largest infrastructure project in the country. It would create jobs and significant benefits for all the people in the East End districts and improve land values, and it would be an improvement in the economy of the country.

This is the strongest indication that we are a Government for all the people. Projects which are for the benefit of the country and its people—irrespective of which district they are located, whether the representative from that district supports the Government or not—will be considered. If thought viable for the good of all, all the necessary support and steps will be taken to put those projects in place, irrespective of allegiances.

While the United Democratic Party is the Government of the day, we will represent all persons in a fair and equitable manner., Petty and dirty politics by the Opposition will not influence decisions for the good of the country.

On the radio show, the other day—and I loath to have to bring in these other entities because I have time for valuable things—there was an accusation made by someone who said he was calling from East End to say that he had seen my name on the property and made it out to be a point that it was my property. What rubbish! The closest property to East End that I have is down on the other side of the Island in Boltins Avenue, Katinalis Drive, Faith Villa, my home and the surrounding property. I own nothing anywhere else outside of West Bay.

I see that the Member for East End is saying that it was not him. Shaggy said that too, 'It wasn't me'. I did not say it was him. He did get up here after that statement was made and he clarified it to me. He said he had nothing to do with it. But what I am saying is that innuendoes are personal motives which are constantly being raised in relation to any projects which are being considered by the Government or projects which are approved, are unproductive, it is divisive and more than likely indicative of the baker's mind set and intention. The Holy Bible says, ". . . as he thinketh in his heart so is he". The problem with some of them is that if a dollar is made they make 75 cents out of it and no one else must get anything. That is their problem! It has always been their problem. Wait, I say until the study is done, we have no intention of running 'helter-

skelter' with a program as important as the dock which I believe is important for a third arm of this country's industry, because we have no natural resources where we can draw money from or employ people when international problems hit us.

I own no land in East End but I took the trouble to ask one of my colleagues to get the documentation of who owns the property, and the Opposition could have done the same. If they did not, I do not know! However, you would believe, if they were honest, good, clean Opposition, they would have gone and ciphered it out and come back and say to the public, *'We know who owns these things because we have such interest, we have held meetings, we have talked about it, our supporters are talking about it, other people are talking about it. Let me go and say this to the public'*. That is what a good Opposition does. I lay this on the Table of this Honourable House for all the world to see who owns it.

The Speaker: So ordered.

Hon. W. McKeeva Bush: Madam Speaker, let me read it because the public will only hear it from the papers and the papers usually put their own spin on things. The letter of the 27 February says:- **"I, Andreas Ovey Ugland, the undersigned hereby attest that I am the sole legal and beneficial owner of the above named company and that no other person(s) has any legal or beneficial shareholding therein"**. I lay these papers for the whole world to see. The company which owns the property is West Indian Group Limited. What is wrong with an investor who is clean and legal and who is doing good in this country, who has put in millions of dollars to develop for the good of the country which people are utilising? What is wrong with them owning property? I am not going to run away good, clean investors and I will not get drunk and run them out of my office either! I am going to do what the people brought me here to do. I will do what is best for the people of this country, but I am not going to allow anyone to shove me down because they have an ulterior motive. I have none. What I want to see, and the United Democratic Party wants to see, is for this country to move forward and to have good investment come in that our people can benefit from; that our people can be employed. That is what we want to see. We are about diversifying our economy. That is what I believe a well-built dock with the proper infrastructure can offer.

So, in spite of the Opposition declaring that there is nothing exciting in the Throne Speech, it is obvious that they are blind, deaf and dumb. It is even more obvious that they have been found wanting in their ability to pay attention to positive details. Rumours, yes . . . conjecture, yes . . . that is what they have been doing. Running up and down George Town like chickens without a leader talking and offering rumours.

Tourism figures are improving and the hard work being done by the private sector and the Ministry of Tourism is beginning to show some improvement despite poor economic performance in the world's major economies and lay-off which appear to be continuing.

The Second Elected Member for George Town who has done nothing yet since he has been here seems to take upon himself a delight to attack me wherever possible. He went on to question why are we doing all of this. Let him wait and see. I have told the public more or less why I would like to see it done. Let us wait and see what professionals who are in the know and have the technological ability to deal with it will say.

Let me deal with him for a minute about why we are doing something in West Bay. Why not? While he is questioning what I am doing in West Bay why is he not offering something for the people of George Town? Why not? A facility in West Bay will help people who would otherwise not be able to get into a business but would have another opportunity. What has he done for the people of George Town? Where are his plans to better off the people of this country and the people of George Town . . . to build another Court House so he can get up there with a wig and robe? That may need to be done maybe it is urgent that it gets done but what are his solutions to the problems that the country faces? He is good at criticising. That seems to be his long suit but where are his programs? Show me. Then that Member may have some reason to criticise the Government. However, when he sits down and does nothing besides (he says) giving away all his salary to his constituents, then he needs to do more. Obviously, what this United Democratic Party Government is about is offering long-term benefits that are going to help all the people. We give away some of our salary too, 'Mr. Member' but we are about giving them a future because the salary that comes from here is not known until the people have spoken.

Give them our salary? No. Give them a job, give them hope, give them some future and you can only do this by hard work; putting in long hours and the sense to carry out the programs and the initiatives that each Member of the United Democratic Party (or someone else if it is feasible) has proposed. That Member instead of asking about what is going on in West Bay should be walking the streets of George Town, all of them not just a few, (I know where he goes) and look at the dire need that the Minister of Community Services and the Minister of Planning are working at, trying to better people's chances in life. We talk about 200 houses and he immediately jumps up . . . wants to find out all about it before everything is ready so they can get out of here with rumour, conjecture, spin and blow it out of proportion. Let the Member be up and doing work rather than criticise.

Financial Industry

The importance of this sector to our economy cannot be over emphasised and the Government is

committed to its continued growth and development. This industry bore the brunt of the emergency revenues introduced and their support and advice is very much appreciated. These were measures Government had to take, but up until we took office on the 8 November there was a \$93 million gap and the Opposition has not yet come forward to say what their plan was. But you can believe this: no plan was in place.

The Government is committed to working diligently on its own problems to reduce the waste and expenditure, turnaround the economy and remove some, if not all, measures that affect all our people. The economy has to be turned around to where it is producing. Government has a surplus and that is the aim of this Government. We need to put aside for a rainy day. The Government will not introduce any further revenue measures on this industry in the foreseeable future. So long as I remain Leader of Government Business, efforts to do so will not be supported by me. This Government is committed to moving in tandem with them.

The industry has been under pressure from European based measures to harmonise tax rates globally and has been the subject from these organisations together with the negative publicity clearly generated to support their initiatives. This has been a destabilising factor in all Caribbean economies and it is hoped that capitalistic oriented economies, such as the United States of America, will take the lead to preserve its own well being and to address these initiatives. As Sir Winston Churchill once said, "**The inherent value of capitalism is the unequal sharing of the blessings. Inherent virtue of socialism is the equal sharing of misery**".

Colin Powell, Secretary of State in the United States of America has recently indicated in the Bahamas that the Caribbean was of strategic importance to the security of the eastern Sea Board of the United States of America. It should be evident to all that countries which are destabilised and their economic viability compromised by initiatives, which the proposers are not willing to put into place in their own countries, have the potential of causing long-term social problems that are extremely difficult for any government of the day to address.

We are proud of our leadership in the free market capitalistic world and are committed never to introducing any form of direct taxation. If we are forced to choose a model for our economy it will not be that one.

The IMF has launched on behalf of the financial stability forum a series of assessments, reviewing the financial structures and systems of all offshore centres. A number of jurisdictions including Cyprus and Belize have already been assessed and a number including but not limited to ourselves, the Channel Islands, Bahamas, Bermuda and Barbados have yet to be assessed.

The Government views this exercise as extremely important and has approved the establishment

of a steering committee to oversee Cayman's preparation for the assessment. This committee is a tripartite one which will involve the Government regulatory and private sectors. At the moment, our assessment is proposed to take place early 2003. There will be opportunities to discuss the process further with IMF officials prior to that time, which we intend to avail ourselves of. The Cayman Islands has no difficulty with being assessed against standards and operation in the industrialised States.

Our aim will be to ensure that we are ready for the assessment and we will commit the necessary resources to this end. We are committed to having internationally agreed and accepted regulatory models with reasonable adjustments for small economies, but we are not committed to following European based regulatory initiatives designed to destabilise our economic well-being, which have not proven successful in their own countries. This is not our idea of a level playing field, neither is it that of our Caribbean neighbours nor apparently, the world's leading economic power (the United States of America).

The Monetary Authority will be made independent and Government believes that its Boards should be comprised of some persons who are recognised internationally in good societies. Again, in capitalistic societies as free market thinkers and leaders together with experts from our country. We will work with the members of the financial industry to do what it takes to remove unnecessary red tapes to business transactions, unnecessary regulatory burdens which exceed internationally recognised and accepted norms, and to assist the industry to grow in new areas. We believe that internationally recognised companies would welcome an opportunity to establish their head offices in the Cayman Islands. We see that as an important part of the industry and we will work together with the industry to encourage this additional type of business with smooth, efficient, hassle free operational assistance from various arms of our Government.

I would like to report to the House that as Leader of Government Business, with the Honourable Financial Secretary and the Deputy Leader, we have established bi-monthly luncheon meetings with various sectors of the financial industry. These luncheon meetings are also attended by other Ministers of Government to discuss any problems and any new initiatives which the Government may assist the private industry to introduce. We encourage members of the industry to let us have immediate indications of any problems which they may be experiencing and to take advantage of our offer of a new working relationship.

I would also like to report to this Honourable House that the Government has recently agreed on a new policy on work permits to be implemented in the very near future. This policy will establish a 21-day maximum time limit for work permits to be processed and issued. This is being done to facilitate and encourage business investment and local investment to settle here.

As a Government we are committed to obtaining expert advice both locally and abroad before taking any decisions on major issues which will affect the financial industry. We do not believe that unnecessary and burdensome regulation or red tape is conducive to growth. And we do not believe in extending international acceptable agreements in the area of exchange of information, the countries which have placed the Cayman Islands on their black list and whose legislation places us at a distinct advantage with others. While the Government is committed to complying with international standards we are not willing to compromise Cayman's competitive advantage.

Immigration

The strength of our country depends on the diversity of its peoples who live and work here. Most Caymanians are the product of diverse unions and mixes of nationalities from the beginning of our history. This unique feature added to our strengths over the last many years. Those who come to our shores and assist us in growing in our economy while participating in our social well being must be welcomed and made to feel at home.

For too long antiquated policies have produced counter-productive forces, and our Government does not support such policies which are not consistent with globalisation. We moved to grant status to those who have been here many years and who have demonstrated a desire to become part of our society, worked our economy, teachers who educated our children. We know there is still a large back log of such persons and today we are happy to be able to announce that the Government has agreed to extend an additional quota of 200 further grants of status. This is the right thing to do and for those who may be granted status, we welcome them.

In addition, the Government is expected to take a formal policy position shortly in respect of what consideration it would wish to see the Immigration Board extend to those individuals whose applications for Caymanian Status on the grounds of residence were unsuccessful late last year. It is possible that a directive could be issued. Advice on this issue is currently being prepared by the Portfolio of Internal and External Affairs and will be considered very shortly by the Executive Council. The advice will address the potential to afford these persons enhanced security of tenure in the form of permanent residency while taking advantage as far as possible of the substantial information that each had to provide with their application for Caymanian Status.

We believe that encouragement should be given to those who come here intending to make this their home and who make significant and major investments in our economy and behave themselves. To do otherwise would not only be internationally unacceptable but would be foolhardy. While some of our people will feel apprehensive they should not be too hasty to criticise the Government on this initiative.

While self-protection is paramount in most people's minds we cannot remain insular. In fact, the international community will not allow us to.

Our country does not have sufficient persons to meet our labour requirements in certain areas and provided that our people are given a fair and reasonable opportunity to advance and to work and to train and to pursue their hopes and dreams in a fair and equitable manner, all necessary permits will be made available in an efficient and fair manner. The dedicated staff at the Department of Immigration and the Boards appointment by the Government are re-energised to provide this efficient quality service and will welcome your suggestions in the manner in which they can better assist the public. In fact, in return we expect that all members of staff, many of whom are over-worked, will enjoy the public's respect, courteous behaviour and appreciation.

There is going to be soon the implementation of a new Cayman Islands landing card. The Cayman Islands Immigration Department is to introduce a new disembarkation card called the ED card next week to replace the current card which has been in place for over 20 years. In my Budget debate I made mention of this. The new card has been designed with the co-operation of the Department and the Ministry of Tourism in order to provide a card that provides tourism with more detailed and accurate data about visitors to these Islands, as well as allowing Immigration to properly categorise and process all persons who arrive at our ports of entry.

Some of the advantages of the new card are as follows: -

- Simplified layout allowing it to be filled in more quickly and accurately by arriving passengers.
- The purpose of visit section has been redesigned to allow, firstly, Immigration to classify the passenger as either a visitor, business traveler, person seeking employment, person taking up employment or a person in transit.
- It will allow tourism to categorise the details of a visitors vacation not only where they are from but whether it be purely leisure, dive trip, a wedding or honeymoon or simply visiting friends and family. This will allow more targeted efficient marketing campaigns to be undertaken and allow very accurate tourism statistics to be produced. The new card has been designed to be similar to the United States Immigration forms, in that, it is a single sheet of card with a tear off slip that the visitors keep with them until departure. It is felt that it will be more durable and easier to keep hold of than the current pink slip that all non-Caymanians have to keep with them.
- The new card also incorporates the Crest, logos of the Cayman Islands, as well as the Website of both the Tourism Department and the Cayman Islands Government. It was felt that in today's extremely competitive market every opportunity for branding should be taken.

- The new cards are cheaper to produce than the existing ones and a majority of the airline serving the Islands have undertaken to produce their own, thus reducing the cost to Government as a whole.
- The entire exercise of the development and implementation of these new cards has allowed the Tourism and Immigration Departments to work more closely together to produce a document and data that will be beneficial to the Government as a whole. This should allow both Departments to meet their objectives in a more efficient and effective manner.

I want to thank the Chief Immigration Officer, Mr. Connor and his staff for I think this is a timely initiative and this development is something that we have needed for some time. I am glad that it is now ready for publication. I certainly want to thank him and his staff.

The private sector has advised that the relationship building in many industries add to customer satisfaction, increased growth and enhanced business opportunities. So long as our country is unable to provide the needs of the various industries, locally and professional staff, or all of them I would say, and our people are given the necessary opportunities they deserve, the short supply in our labour market will be addressed. All necessary permits, as I have said, will be made available when needed. However, training for Caymanians must also exist, Madam Speaker. The Minister of Human Resources is well in advance of these initiatives.

Government Finances

The Government, in general, is committed to reducing costs and cutting waste from the government. All efforts are being examined to privatise services where this can be done efficiently and in a viable manner and this is ongoing presently.

Government cannot continue giving economic projections and conditions to grow at rates or exist in its present size. It is a simple fact. The simple fact is that there is no money to do so. Hard decisions will have to be made for the benefit of this country and our people. As Leader of Government Business I am prepared to make those decisions where I must to ensure a solid base for the future of our country and our children. The United Democratic Party is committed to this.

An examination of the entire Civil Service is being conducted through the Office of the Governor and all Members of the Executive Council (EXCO) are working extremely hard to identify areas in which Government may be made more productive and to cut costs. The Opposition has labeled me as being responsible for the removal of the so-called certain civil servants. Everyone knows, and any reasonable person understands, that the employment and termination of civil servants is the sole responsibility of His Excellency the Governor, or where the Government owns a corporation the Board of that corporation.

While the Opposition has engaged in its usual divisive propaganda, the truth is that as Leader

of Government Business I and my colleague Ministers have embraced the Civil Service. I will lead the first policy discussion forum between the political directorate and the senior managers within the public service, statutory authorities and Government owned corporations to seek their input. The Minister of Education, the Minister of Community Services, the Minister of Health Services, the Deputy and all other Ministers will also lead in this forum.

We appreciate the role that the civil servants play as the people entrusted to interpret and implement the Government's policies. We must work together though because the country is faced with tremendous challenges that can only be addressed through a collective effort and that is what the United Democratic Party advocates. Nobody is trying to push civil servants around. Just think . . . a civil servant went on the talk show and lambasted us but it is strange. They had their say but I say that we must all work together. In my five terms in this House that is what I have tried to do to push Caymanians up whether they are in the private sector or in the public sector. I think that the Government as a whole supports that.

One of the biggest problems and the greatest hindrance to efficiency and performance in the public service is that there is hardly any co-ordination from top managers in what EXCO is doing. The carrying out

of business is bound to suffer. Everyone is busy and there is much to be done but all of us as Ministers and managers could be more effective in getting decisions implemented and carry out our duties if there were modernised co-ordination. We are examining ways in which this can happen, in that, I believe a new Cabinet office needs to be set up properly.

The Cost of Public Service

Turning now to the cost of the public service. People have been working on this for some time and I have been talking about it for some time. Unfortunately, there is no longer the supply of money to support various aspects of Government services at their present levels. The losses in Cayman Airways and in the Health Service Department are being addressed together with other areas of Government expenditure and all decisions will be made with a view to the long-term interest of our country, our economy and our people. I am glad that the Minister who has just been elected for the Health Services has jumped right in and 'grabbed the bull by its horns'. As far as I am concerned, moving in the right direction regardless of what the Opposition wants to say.

We believe that Government must operate like a business, provide our people value for money, fast, efficient, address the needs of all and be an institution of which everyone can be proud to be a part of. Inefficiency should not be tolerated and the urgency of the situation is being addressed on a daily basis. Given the prevailing economic climate in the Cayman Islands and internationally, the Government out of necessity

has sought means of stimulating economic activity. Inward foreign investment is an essential ingredient in the growth of our economy and provide jobs for our people and money for the Government to provide the necessary services that the public expects.

This investment must be encouraged, investors welcomed and projects dealt with in a manner to remove unnecessary roadblocks.

A new board (the growth management board) will be set up by the Government in the very near future to oversee this role and we look forward to its recommendations and to it playing a significant role in the development of our country. For those who in the past had preached that Cayman no longer needed investors and investment and who put policies in place to cause roadblocks and unnecessary divisive strategies in our country, the results are evident today. I heard the Second Elected Member for George Town talking about development. Although I do not believe he was able to develop all of his argument, he more or less questioned the need for it because of the cost to the country. That is what the Government has to balance but you cannot stand here and be divisive and cause doubt to be laid on everything and on people who are bringing in investment into the country. Or else we are going to wither up and die!

The world is moving on while the challenges and problems are there and we are being left behind. We have to get back to the point where we become a place where people want to come. We have to do that; we have to get the most out of it. That is what Government needs to balance.

There is unemployment presently and far too many of our people are out of work. Our people are having an extremely difficult time partly as a result of these policies. I know the Government is taking all possible steps to reverse that situation. Just a few years ago there was a big hue and cry about the Ritz Carlton that it was a bad thing. Of course, McKeeva was going to get rich out of it. You know that was the big story, that is what they like to pinch on. There was a big hue and cry about the Dart development. Now you run through the country you hear people saying, *'When are they going to start, when are they going to finish, we need work'*. A few people running around the country who can get on the talk show or write dirty remarks on *Caypolitics* or who can get a rumour spread on the front page of a paper. They do not make up all the country neither does one Member of this House who gets up on a platform with twenty-five people to a meeting and say this is the people of this district.

I have been here long enough to know that when the chips are down; when the people need; when their business is suffering; when their children need; when they cannot pay their bills; when their mortgage is behind those who got out there and shouted were not in the majority. It is true that those who burned down the Fire Station are the same ones standing on the wayside asking what in the world is the Government doing to put out the fire. That is how it is. There-

fore the Ministry of Development and Planning is working to establish the infrastructure required to attract and promote and encourage local and foreign investment in the Cayman Islands.

A major vehicle for driving this initiative is the new investment bureau working in partnership with the growth management board and the private sector. These bodies will seek and review proposals for major development projects. I am happy to report also that today marks the coming into effect of the Cayman Islands Development Bank (despite the Opposition's objections) and the dissolution of the AIDB and the HDC. This institution has within its budget \$5 million earmark for housing in the Cayman Islands. A Motion will be brought to this House shortly to ratify the \$5 million loan agreement for the good of the people. Yet they say there is nothing good to be happy about. Well, they do not have to grin but there are benefits for the people of this office.

The Speaker: Madam Clerk, could you please indicate how much time there is remaining? *[Pause]*

Honourable Leader there is 11 minutes remaining. Is this a convenient time for the luncheon break or would you wish to conclude your remarks? We will now suspend for the luncheon break and reconvene at 2.30 pm.

Proceedings suspended at 12.55 pm

Proceedings resumed at 2.50 pm

The Speaker: Please be seated. Proceedings are resumed. The Honourable Leader continuing his closing remarks on the Throne Speech. There are 11 minutes remaining.

Hon. W. McKeeva Bush: Thank you, Madam Speaker. I would like to take a few minutes to deal with a few matters on the Turtle Farm.

The Turtle Farm

The Farm is moving ahead with a \$8 million redevelopment program to enhance the Farm to move operations across the street from the ocean side. This also will provide a boost to the local economy as I understand the economist say that it is the multiplier effect. It is something like five times so that works out to be about \$40 million in the local economy. I believe this comes at the right time when the economy is down although moving in the right direction. I want to say that local contractors and workers will get the work. I say that as Minister and as a representative of West Bay and as Chairman of the Board.

Although one local Jeremiah has been proclaiming on the radio show that the contract is already given out, nothing could be further from the truth. No contract has been given. We will ensure that local contractors and workers get the work. It gives me great pleasure to be able to say also that the Cayman Turtle

Farm has commenced the process of applying to CITES to be registered or captive breeding status. This process was initiated after the Foreign and Commonwealth Office sponsored a visit to the United Kingdom in September last year to discuss environmental issues. Myself and the Director and the management from the Farm were present—the FCO for those discussions. At this time the Farm's status was discussed and the conclusion reached that the Farm now qualifies for captive breeding status. If granted the Farm will be able to conduct trade of its products on an international level. This is a welcome to us.

In closing I believe it is my duty to represent all the people and while I lead the United Democratic Party Government will also have that as its duty. To bring investment, protect the country, to bring prosperity for all. Put people back to work so they can pay their bills and raise their families with some satisfaction. What is the vision statement of the United Democratic Party? The UDP represents all the people in the Cayman Islands and provides an opportunity for equal participation in governing the Cayman Islands to reach its great potential as a country. The UDP will deliver this through contractual commitment and open communication with all the people of the Cayman Islands while providing opportunities for each and everyone's involvement in the successful completion of this obligation. That is our vision statement. That is what we are all about.

These are challenging times for the world and more so for the Cayman Islands devoid as we are of natural resources. Much is being said about development, about the dock and about higher buildings but one fact becomes increasingly evident to all of us who understand and care about these Islands. The Cayman Islands and the world will never be the same again. Gone are the relatively easy years of economic growth when investors lined up at the doors of these Islands and said, '*We are eager to put our money in your country*'. We now have rough, tough competition internationally for money and markets.

I want the Opposition—the game they are playing is dangerous. I say to them in spite of our problems these Islands are not dead. We still have a lot going for us and it would be a tragedy of monumental proportion to have our economy, our competitive position for we still have an edge. Yes, our national unity was placed in jeopardy because during these times of constitutional reform, economic challenges, times of testing for all of us, we were unequal to the challenge. We had become unable to lift our sights and place the national interest before all other interests. I shall not be among them. I believe the good Lord will help us out of this situation if we do our part because that is what the good Book teaches us—if we do our part. However, we are not going to do that with the kind of Opposition I see being displayed. Opposition has to be reasonable; it must come with properly laid out plans. Not innuendo, gossip mongering, threats of demonstrations. The people of this country—not the United Democratic

Party—cannot afford that in these challenging times. I say to them, be reasonable. It is no good of the leaders in this House standing or sitting and saying nothing while their supporters are doing the horse work or the donkey work or the dirty work. I knew when we got elected in 2000, that the people were looking, they were understanding, they were watching, they were listening to the programs, listening to what is being offered. I have the greatest confidence in the intellect and good, sound common sense of the people of this country. If that were not so I would not be here today because I had a lot going against me, in fact, eighteen candidates against the four of us. I speak of my constituency.

Opposition must be sound, fair, and reasonable. Opposition is good because that is democracy but so is responsibility. It carries with it responsibility and when I hear about people threatening other people and all other innuendo and foolishness that is going on in the country, it causes worry. But I do say that I believe the good Lord will help us out of this situation. I can say that I have proven—and I will say what I said in the opening this morning—that strong criticism disappears when the facts catch up with lies.

Vision, accomplishment, falling arrows. The United Democratic Party has a vision, we have accomplishments. Not so much in brick and mortar but systems and programs for the good of the country, long term benefit of the country. The Opposition has shot their arrows but they have fallen. I say again, no damage done.

I thank His Excellency the Governor for coming to this Honourable House to deliver the Speech as we see it. Thank you.

Indulgence by the Honourable Speaker

The Speaker: I crave the indulgence of this Honourable House to say a few words:

I speak from this Chair as Speaker and I am aware that this procedure has been set and, in fact, in the year 2000 the then Deputy Speaker, the Presiding Officer at the time during the Throne Speech on the 16 March 2000, set the local precedent. As I did not have an opportunity to debate this Throne Speech this year I now formally and respectfully request that all Honourable Members and Ministers, indeed the UDP Government, that they would continue to note the very necessary needs of my beloved districts of Cayman Brac and Little Cayman. There are obviously many wants that I would desire for Cayman Brac and Little Cayman but as a responsible representative, I am still fully cognisant that in a time of fiscal constraints which our country is now experiencing that the UDP Government as they are continuing to prioritise the national leads of our country, that Cayman Brac and Little Cayman will indeed form an integral part of the nation's priorities.

I would also respectfully request as I have done with past governments that before the Govern-

ment makes decisions among its many varied and diverse, complex, local and international issues, that as much as possible, special attention would be given to the need and the desires of the constituents within the constituency of Cayman Brac and Little Cayman.

I should also wish to thank the Members of the UDP as well as all Honourable Members for taking the time out more in recent past for visiting the constituency of Cayman Brac and Little Cayman and indeed given the commitment to make regular and more often visits as has been the case over many decades. On behalf of my people I wish to convey their gratitude in this respect for this attention. Honourable Members, I should also wish at this time to once again draw to the attention of all and sundry that there are many pressing needs within Parliament itself.

During our tenure I hope that we would see the realisation of an independent Parliament, not only of Parliamentarians but indeed that of our staff. I should also wish to see a proper Library instituted here within our Parliament as I believe that if we are to continue with due diligence in carrying out our people's interest at the high level that is now expected, we must have not only the staff to carry out quick and efficient research, but also a Library that is up to date. Speaking of staff, Honourable Members, I would ask that amidst the fiscal constraints that special attention would be made to the lack of staff within this Parliament. I should also wish to draw to the attention of this Honourable House, as well as the listening public, the dire need for extra space for the Representatives within this Parliament, not only to conduct the affairs of this country but also to have the physical space to meet with any of our constituents who may come into this Parliament at any given time as the current situation does not speak good for the fifth largest financial centre within the world.

The other area I should wish to re-emphasise and draw attention to is that we have now entered the era of information technology, and I believe that it would be remiss of us, as this current generation of Parliamentarians, not to grab at the opportunity and bring our Parliament up to the age of information technology, whereby we can transact business, as the Deputy Leader has said many times into the e-business commerce. Government, I believe, should as well as with the support from all other Members in this House, give their 100 percent plus support behind this venture.

Honourable Members, I thank you for your indulgence. As I have said, I have not set a precedent, but I felt that we have now come into a realm, not only with looking at the modernisation of the Civil Service and indeed our Constitution, but Parliament must not be left behind. In so doing I would ask Members to take some time to review the Legislative Assembly (Immunities, Powers and Privileges) Law 1999 Revision because when one looks at a penalty of \$100 for a fine for defamatory remarks made by the public, I think it is a joke and it is time that the Legislative procedure,

upon the recommendation of this Parliament, set that matter right. I thank you.

That concludes the debate on the Throne Speech delivered by His Excellency, Mr. Peter J Smith, CBE, Governor of the Cayman Islands.

Madam Clerk, next item of business please.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTIONS NO. 1/02

Amendment to the Marine Conservation Law (1995 Revision)

The Speaker: The Elected Member from the district of East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I beg to move Private Members' Motion No. 1/02 which reads:

"WHEREAS the Marine Conservation Law (Law 19 of 1978) (1995 Revision) (The Marine Conservation Law) was amended by the Marine Conservation (Amendment) Law 2001 ("the Amendment Law);

"AND WHEREAS clause 2 of the Amendment Law redefined 'speargun' in the widest possible terms so as to include, among other things, a traditional implement consisting of two prongs without barbs attached to a pole generally used for the taking of conchs and lobsters and commonly called a 'striker' or 'spike';

"AND WHEREAS a striker or spike is not generally or easily used to spear fish;

"AND WHEREAS many indigenous fishermen use a striker or spike to take conch and lobster for the purpose of bait and otherwise;

"AND WHEREAS the Marine Conservation Law now makes it unlawful to own or use a striker or spike without a licence;

"AND WHEREAS the requirement to obtain a licence for a striker or spike is viewed as unnecessary, restrictive, unduly onerous and cumbersome by traditional fishermen;

"BE IT NOW THEREFORE RESOLVED THAT the Marine Conservation Law be amended so as to exclude from the definition of speargun the traditional implement known as a 'striker' or 'spike'."

The Speaker: Is there a seconder?

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I beg to second that Motion.

The Speaker: Thank you. Does the Mover of the Motion wish to now debate?

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

I do not propose to take a very long time on presenting this Motion because it is rather straightforward and I believe all Members of this Honourable House are aware of why I brought this Motion. One of the reasons was that during the Committee stage where I was supposed to bring a Motion, the Committee stage of the Amendment of the Marine Conservation (Amendment) Bill, we sort of went pass it so we could not go back to the Motion. Therefore, I thought it necessary to bring it to Parliament. Besides, the Bill has already been gazetted therefore, under the current conditions right now, it is illegal to use a strike or spike on the three Cayman Islands. Madam Speaker, just to briefly say that we are all aware that it is a traditional instrument used by our fishermen (anyone who goes fishing not for commercial purposes only) to retrieve conchs and lobsters. I agree that in more recent times this means of retrieving lobsters and conchs is not as widely used as before. I do not believe that it has ever been widely used in the two sister Islands as it was here in Grand Cayman. Nevertheless, it is a traditional thing and we still have members of the community using it.

I believe that it is necessary for us to exempt this spike/striker from the Law because most people and most of us should know how a striker is made. It is basically made with two unbarked prongs on a pole (a pole usually retrieved from the forest). The pole is unbarked before preparing the spike. I believe that at the time the Amendments were proposed to the Marine Conservation Law was overlooked maybe in the haste. Maybe it was not overlooked because I believe they were—having talked to some of the proponents of those Amendments—under the impression that the spike can be used to spear fish. To some extent I would want to agree with those who say that but certainly a spike cannot. And it is impossible for a spike to take as many fish as a mechanical speargun would. The amendment in clause 2 of the Amendment Bill was proposed and passed, which reads: **“Speargun includes a mechanical speargun, a Hawaiian sling, a pole spear, a harpoon, a rod or any other device which may be used to take marine life by spearing it”**. In the broadest terms that indicate that a spike would be considered illegal without a licence because conchs and lobsters are considered marine life.

I respect that, particularly the members of the Department of Environment. They are strapped and their job is to try and protect the environment. I respect that they will make every effort to ensure that provisions are in place in order that there are no loop holes and no fisherman or any resident saying to them, ‘*Yes we caught all of these fish by using a spear*’ when they should have had a licence for it.

I believe that there are sufficient people left in this country who can testify that when one says he has the allotted amount of fish under the Law by means of spearing, that those fish were not speared by a spike. I understand the excuse that is always given whenever

the marine enforcement officers approach these individuals who go out and destroy the marine life: ‘*Well it was not the spear we were using, we were using hook stick or we were using the harpoon*’. Certainly the marine officers have to back off because there is no provisions in the Law. Therefore, the Department quite rightly proposed that we include everything and that is the way we would cover it. To some extent I agree that we need to make sure that we cover as many bases as we possibly can. In my humble submission, for those same individuals who claim that their taking of the marine life, in particular fish, with holes in them was done by a spike, if any jury or judge in this country sees a spike, I am sure they will conclude that it is impossible to take 300 fish with a spike within one day.

This is not something that we can dive under the water and stay down there for a long period of time and strike fish. It is not propelled easily and it is only used in shallow water . . . 10, 12, 14 feet maybe. To strike a fish with it the fish would have to be stopped and it would have to be in rather shallow water. We have many members of the community who fish not only for a living but as a hobby. These people in a number of instances, they are the older generation.

I can think of many in my constituency who are much older but have held on to the traditional way of fishing, that is, going out in their boats and retrieving their bait (conchs and lobsters). Then we have the younger generation who has caught up with the technology of today and they go and retrieve their conchs and lobsters as a means of bate by putting on diving gear and getting into the water. However, the older folk in this country cannot get over the side and dive for conchs so they rely on the little striker/spike to retrieve some of these conchs for bait.

There are provisions in the Law for taking certain amounts of conch and lobster and we cannot deprive anyone of that. In essence, if we left the provisions in the Law which makes a striker illegal then we are depriving those citizens who have hung on to the traditional way of retrieving conchs and lobsters. I am humbly suggesting to the Members of this Honourable House to consider that. Certainly I know the situation, like I said earlier, many of those who use spear fishing as a means of livelihood will try to circumvent that same striker and spike and say that they are capable of spearing fish with it. Well, I believe that if anyone claims to be able to do that then I think the jurors, the judges and the legislators should ask that individuals and the marine officers give a demonstration on how that can be done.

In all my years here I have never seen it done. Yet, certainly we will be learning every day. I respectfully submit that those individuals who will tell the marine officers that they use a spike to spear 300 fish in one day would be telling them a lie. That is one of my reasons for asking that the spike or striker, whichever we wish to call it, be exempt from the definition of a speargun for which a licence is required. I understand Hawaiian sling, pole spear, harpoon and the rod, but

they also claim that they can skillfully take fish with the hook stick. Again, that is something I would have to see. Again, let me say that I wholeheartedly respect the members of the Department and the Ministry for their efforts to try and cover all the bases to prevent people from taking so much marine life. I applaud them and support them but that broad definition tends to encroach on some of our traditional way of doing things. I would respectfully ask the Members of this Honourable House to support this Motion because we certainly do not want to legislate laws to cause hardship on some of our older people who go there and use the traditional methods to live. They go and fish to sell it back.

Having said that I will sit down and await the Government's reply. Thank you.

The Speaker: Thank you, Elected Member for East End. Does any other Member wish to speak? The Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, the Ministry sought direction from the Department of Environment on this matter, and I can certainly appreciate the sentiments expressed by the Mover and the Seconder of this Motion. I wish that it was not necessary to regulate fishing practices to the degree that we have done, but unfortunately there are certain elements in our society who make tight regulation a necessity. Nevertheless, I am confident that we can achieve the desired outcome of the Elected Member for East End and the Seconder of the Motion.

After consulting with the Department of Environment regarding enforcement issues surrounding this Motion, I am of the view that the Government can support the contraction of the definition of speargun. This would include a mechanical speargun, a Hawaiian sling, or any other device mechanically propelled to the water, provided that a new section is inserted in the Law that provides for a catch limit and possession limit for fish, which have been taken by a speargun as would be newly defined or any other device used to spear or impale a fish. I believe that this would address the concerns of the proponents of this Motion, in that traditional fishermen will be able to continue to use strikers to take conch and lobster without having to license them. The insertion of the new section would close the door on those people who are using implements other than spearguns to slaughter hundreds of fish and other marine life. So when we do this other amendments will be brought at the same time. The fact is that the Department having a tremendously hard time with the use of spearguns and other things that are being hand made locally to spear fish. When we look at all these pictures we see the amount of reef fish that are being speared and for who is going to need a meal that is not so bad but when we see hundreds of reef fish that have been taken and are fast disappearing. Sometimes the things that we do not normally eat here and we just allow them to do what nature has put them there to do in our marine environment.

So, on advice from the Department of Environment we have no problem with the request.

The Speaker: Does any other Member wish to speak? Last call, does any other Member wish to speak? If not, would the Mover wish to exercise his right of reply?

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

First of all, let me thank the Minister of his contribution and the support that Government has indicated. I appreciate the Government's position and understanding on this issue and I want to let the Government know what any measure that tries to assist with the protection of our marine environment, I will be supporting. Certainly, he mentioned that there were things that we do not usually eat here that are being destroyed and I would ask the Government to include something that I learned since submitting this Motion. I was told recently by members of my constituency that the people are now taking all the sea urchins and the foreigners, in particular the Phillipino nationality among us—I recall when I was growing up you could not walk on the grass because of sea urchins and they just went away for a while. I do not know what caused that . . . maybe some disease that came through. All of a sudden, they are all back—and they are taking them by the 15-gallons, three 5-gallon buckets full and I know, Madam Speaker

Point of Elucidation

Hon. W. McKeeva Bush: Madam Speaker, I wonder if the Member would give way and I would satisfy his concern.

The Speaker: Honourable Member, will you give way?

Mr. V. Arden McLean: Yes, Madam Speaker.

Hon. W. McKeeva Bush: Madam Speaker, in the same discussions we had the Department is requesting that echinoderms be added to the list of prohibited species. This was omitted when the previous amendments were tabled. These include species such as the Member is talking about, sea urchins or sea eggs, star fish, sand dollars, and sea cucumbers. He is right, we are having tremendous problems with it and those are the other amendments that I said would be brought.

The Speaker: Thank you. Member for East End continuing.

Mr. V. Arden McLean: Thank you, Madam Speaker. I need not go any further on that then because I was going into all those that we call sea dumpling and the fish, et cetera. They are taking them and as I said in my debate on that amendment Law earlier on in the year, Caymanians do not eat those. Those are for the beauty of our marine life and as the Government brings

it I can give them my support now and let them know that I shall be supporting it. The other Opposition Members certainly will be supporting any move in that direction. Thank you very much.

The Speaker: The question is that The Marine Conservation Law be amended so as to exclude the definition of speargun, the traditional implement known as the striker or spike.

All those in favour please say Yes. Those against, No.

[Laughter]

Ayes.

The Speaker: The Ayes have it.

The Motion is passed in its affirmative. I did mention that we would be seeking to modernise Parliament. *[Chuckle]* Perhaps that is the terminology that came out as a Freudian slip. The Motion is accordingly passed. We will now take the afternoon break.

Agreed: Private Member's Motion No. 1/02 Passed.

Proceedings suspended at 3.34 pm

Proceedings resumed at 3.55 pm

The Speaker: Proceedings are resumed.

Madam Clerk, the next item of Business.

GOVERNMENT BUSINESS

The Speaker: Honourable Deputy Leader of Government Business, I understand it is your intention to move a Motion.

Motion to defer Government Motion No. 1/02

Hon. Linford A. Pierson: Madam Speaker, I seek leave of this Honourable House to defer Government Motion No. 1/02 until a later Sitting during this Meeting of the House.

The Speaker: Thank you. The question is that Government Motion No. 1/02 be deferred until a later sitting of the House. All those in favour please say Aye. Those against, No

Ayes.

The Speaker: The Ayes have it.

Agreed: Government Motion No. 1/02 Deferred until a later date.

The Speaker: Could we have a Motion for the adjournment?

ADJOURNMENT

Hon. W. McKeever Bush: Madam Speaker, I move the adjournment of this Honourable House until Wednesday, 6 March 2002 at 10.00 am.

The Speaker: The question is that this House be adjourned until Wednesday, 6 March 2002 at 10 am.

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

Ayes.

The Speaker: The Ayes have it.

At 3.57 pm the House stood adjourned until Wednesday, 6 March 2002, at 10.00 am.

OFFICIAL HANSARD REPORT
WEDNESDAY
6 MARCH 2002
10.19 AM
Ninth Sitting

[The Deputy Speaker in the Chair]

The Speaker: I shall invite the Honourable Minister of Tourism and the Leader of Government Business to grace us with prayers.

PRAYERS

Hon. W. McKeeva Bush: Let us pray.

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

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

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

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

Proceedings resumed at 10.50 am

The Speaker: Please be seated. Proceedings are resumed.

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

Apologies

The Speaker: I received apologies for absence today from the Honourable Speaker; the Honourable Minister for Community Services, Youth and Women's Affairs; the Second Elected Member for Cayman Brac and Little Cayman and the Honourable Second Official Member. I have also received apologies for the late arrival from the Honourable Minister for Planning.

**PRESENTATION OF PAPERS
AND OF REPORTS**

Cayman Islands Monetary Authority Annual Report 1999

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to lay on the Table of this Honourable House the Cayman Islands Monetary Authority Annual Report for 1999.

The Speaker: So ordered. Would the Honourable Minister wish to speak thereto?

Hon. George A. McCarthy: My comments, Mr. Speaker, will be on both of the reports after I have tabled the one for the year 2000.

Cayman Islands Monetary Authority Annual Report, 2000

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to lay on the Table of this Honourable House the Cayman Islands Monetary Authority Annual Report for the year 2000.

The Speaker: So ordered. Does the Honourable Minister wish to speak thereto?

Hon. George A. McCarthy: Mr. Speaker, before addressing the financial highlights of the Report (these are the Reports for the year 1999 and the year 2000) I would like to comment on a few of the noteworthy achievements by the Monetary Authority.

During 1999 Cayman was the host jurisdiction to the 17th Annual Conference of the Caribbean group of Banks supervisors, as well as the Annual meeting of the offshore group of insurance supervisors. Another significant event that also underscored the commitment of the Authority, to actively participate in cross-border supervision was the introduction of the

Memorandum of Understanding signed between the Cayman Islands and Brazil.

As always, Mr. Speaker, staff development was a priority during both years with several employees successfully participating in training courses put on by the Federal Reserve of New York, the United States Security and Exchange Commission and other institutions.

The year 2000 was a challenging one for the Monetary Authority and the financial services industry as a whole. During that year, various international initiatives such as the Financial Action Task Force (FATF) Report on non-co-operative jurisdictions and the KPMG Review of the Caribbean Overseas Territories were the focus of all participants in the Cayman Islands financial sector.

In response to these initiatives, the Cayman Islands amended various pieces of financial legislation and enacted the Proceeds of Criminal Conduct Law Money Laundering Regulations 2000. The legislative changes made in 2000 made significant improvements to the Cayman Islands existing anti-money laundering legislation and regime.

The Cayman Islands received a favourable review in the KPMG Report published in 2000. The Report noted that Cayman's recent financial legislative changes relating to international co-operation and anti-money laundering, taken as a whole, were extensive and largely consistent with international best practice standards.

Financial statements included in the 2000 Report on pages 36 to 48 were audited by the Auditor General in accordance with the provisions of section 35(2) of the Monetary Authority Law 2000 (Revision) and section 45(1) of the Public Finance and Audit Law 1997 (Revision). The annual financial statements of the Authority as at the 31st December 1999 are also shown on pages 33 thru 43 of the 1999 Annual Report.

Among the financial highlights for the year 2000 are total assets of \$69.8 million. For the year 1999 that figure is \$71.5 million. For the year 2000 this included \$68.8 million of currency reserve assets representing investments and current call and fix deposits. For the year 1999 that figure was \$69.9 million.

Total liabilities of \$55.7 million, which include \$51.1 million of demand liabilities for currency in circulation, were fully secured by the currency reserve assets as required by section 28 of the Monetary Authority Law 2000 Revision. Total liabilities for the year 1999, when Members looked at the financials in the report, can be seen as \$56.3 million and the full amount would represent the demand liabilities for currency in circulation that were also fully secured by currency reserve assets, as required, under section 28 of the Monetary Authority Law.

Total reserves and capital was \$14.1 million. For the year 1999 \$13.9 million and the general reserves is maintained at 15 per cent of the demand liabilities, as required, by section 6 and 8 of the Monetary

Authority Law. The general reserve requirements were decreased by \$800,000 in the year 2000. A similar decrease occurred in 1999, which amounted to \$1.7 million. Net income for the year 2000 can be seen as \$4.6 million and for the year 1999 as \$3.2 million.

With respect to movements in statutory reserves the Currency Board approved a transfer of \$100,000 to the currency issue reserve to provide for future reprints. A transfer of \$50,000 was to the currency issue reserve to cover currency reprints also occurred in 1999.

Approval was also given for the transfer of \$800,000 in the year 2000 and \$250,000 in 1999 to the paid up capital account. After satisfying these requirements the Authority was still able to exceed its budgetary target of transferring, in the year 2000, \$4.5 million and in the year 1999 \$1.2 million to the general revenue of the Cayman Islands Government.

Mr. Speaker, I would like to express my appreciation to my fellow board members of the Cayman Islands Monetary Authority, as well as to the management and staff of the Monetary Authority for their continued hard work and dedication. Thank you very much.

Proposal for Establishing New Employment Relations in the Cayman Islands

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

Hon. Roy Bodden: Mr. Speaker, I beg to lay on the Table the proposals for establishing new employment relations in the Cayman Islands.

The Speaker: So ordered. Does the Honourable Minister wish to speak thereto?

Hon. Roy Bodden: Thank you, Mr. Speaker. I have a brief commentary, which I would like to make.

Mr. Speaker, this effort is the culmination of an exercise undertaken by the Ministry shortly after I was assigned responsibility for these matters. It is significant to note that the proposal is for the new Law to be called 'The Employment Law' as against 'The Labour Law' and the proposals include the establishment of a minimum wage advisory committee.

More significantly, the proposal attempts to amalgamate a series of laws into one instrument, which is not only comprehensive but which ensures and guarantees the protection under a tripartite system of employer, employee and government. Also significantly too, to bring the Cayman Islands in line with international obligations, including obligations from the International Labour Organisation and Obligations, which has to do with International Human Rights Conventions.

It is proposed to amend the Workmen's Compensation Law so that everyone including the poorest

and most underprivileged members of the working community are protected. The Pensions Law, The Trade Union Law, The Trade and Business Licenses Law—these suggested improvements are going to bring the country up to the position where hopefully, we can include the Civil Service so that we no longer have one country—two systems.

Later today I will be addressing the Chamber of Commerce on issues contained in these proposals. I can say that to date what was the Labour Department has now been restructured and renamed The Employment Relations Department, and we have established an Employment Services Centre where the practices are significantly different from what transpired in the past.

It is proposed with this tabling that the public will have three months in which to submit their comments on this proposal. These comments will be taken into consideration and thereafter it is proposed that we will draft the Bill to bring to this Honourable House with the ultimate objective of drafting a new Employment Relations Law.

I look forward to receiving the comments from the public and from all those concerned. I also look forward eventually to the development of an instrument, which allows the Cayman Islands to meet international obligations but more importantly, lays out the understanding of the tripartite system and sets the tone for best practice between employer, employee and government. This instrument should ideally take the Cayman Islands into the 21st Century in terms of modern employment legislation. Thank you.

Suspension of Standing Order 23(7) and (8)

The Speaker: Before we go into questions, we have now reached the hour of 11.00 am. Is there a Motion to suspend Standing Order 23(7) and (8)?

Hon. W. McKeeva Bush: Mr. Speaker, I move the suspension Standing Order 23(7) and (8) in order for questions to be taken after 11.00 am.

The Speaker: The question is that Standing Order 23(7) and (8) be suspended to allow question time to continue beyond 11.00 am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Orders 23(7) and (8) suspended.

QUESTIONS TO HONOURABLE MINISTERS AND OFFICIAL MEMBERS

Question No. 20

Deferred Wednesday 27 February 2002

The Speaker: The Elected Member for East End to ask the Honourable Minister.

No. 20: Mr. V. Arden McLean asked the Minister responsible for Education, Human Resource and Culture if the Government has given approval to an overseas group called St. Matthew's University to open an offshore tertiary facility in the Cayman Islands and, if so, under what conditions was it given.

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

Hon. Roy Bodden: Mr. Speaker, the answer: In January of this year the Government gave approval to the St. Matthew's University School of Medicine to establish a Cayman Islands campus. The University's local representative was advised of this decision and authorised to begin the necessary paperwork with the relevant Government departments. Currently, the University is incorporated in Belize, but, as part of their proposal to the Government, the University agreed to become incorporated in the Cayman Islands.

As with the establishment of any new organisation of this nature the University must comply with the laws of the Cayman Islands. Since St. Matthew's is an educational institution, it must also be registered with the Education Council and this matter will be handled at an upcoming Education Council meeting.

The Speaker: Are there any supplementaries?
The Member for East End.

Supplementaries

Mr. V. Arden McLean: Thank you, Mr. Speaker. Can the Minister say if the St. Matthew's University School of Medicine has affiliates in other countries other than Belize?

The Speaker: The Honourable Minister.

Hon. Roy Bodden: Mr. Speaker, it most certainly does. It has affiliates and associate institutions in the United States, Canada and the United Kingdom.

The Speaker: Elected Member from East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. Can the Minister say if this campus will be operated as a new campus being built or will utilise some of the Government's facilities, such as the Community College campus?

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: No, Mr. Speaker. This institution will be operating entirely independent of the Government Community College.

It is my understanding that space for classrooms and administration has been leased on the Safe Haven site and this is where the University will be conducting its classes and where it will have its administration offices.

I have been informed that commencing in May there will be 200 students coming to the Cayman Islands, who are registered to come here and start classes, and it is my understanding that within the next 12 months the enrolment will possibly be up to as many as 500.

The Speaker: The Elected Member from East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. Can the Minister say if the Government of the Cayman Islands will be utilising this institution for nurses, et cetera?

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, the University's authorities have generously donated one medical scholarship per year for qualified Caymanian students. In addition, the University's authorities have told us that they would like to enter into an understanding with our medical personnel here, whereby we can benefit from eminent professors, consultants and resource people that they bring down to hold conferences. They will be willing to share with us any development in the medical field and medical technology which can be of benefit to our community.

The Speaker: The Second Elected Member from George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. I wonder if the Minister can give us any details about the type of accreditation that this University has and whether or not he is satisfied that the University is competitive.

The Speaker: The Minister for Education.

Hon. Roy Bodden: Mr. Speaker, it is my understanding that this University is a reputable academic institution. Persons who particularly follow medical studies in the United States will know that it is extremely difficult for people to get access into medical schools in the United States. It is highly competitive and even in the States, in addition to the academic requirements there is usually a residential requirement where, for example, if it is in the State of Florida applicants who are normally residents in Florida will get consideration and priority over other qualified applicants from out of State. It is certainly nigh impossible for anyone who is not a United States citizen to gain access into a United States medical school for the first degree. However, for a qualification of the medical diploma at the postgraduate level it is a little easier.

This University, I am made to understand, is especially attractive to those students who have high caliber qualifications, many of whom have first degrees in ancillary fields, but have not been able, largely as a result of the highly competitive nature, to enter medical schools which are affiliated to the major universities.

Indeed, Mr. Speaker, some of the principals of St. Matthew's University Medical School are themselves eminent academics who, prior to this, were associated with prominent universities and medical schools in the United States. As far as their accreditation is concerned, I have on my desk at the Ministry, as we speak, a letter from the principals asking for certain recommendations from the Government so that the University can receive accreditation from their Accrediting Commission on Colleges of Medicine authorised by the United States Department of Education. It has already been approved by the Canadian Department of Education and its association with other various universities puts it in a good stead for national recognition and accreditation.

The Speaker: The Second Elected Member from George Town. I will allow one more supplementary after this one.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. I wonder if the Minister could confirm if he is saying that as at present, the St. Matthew's University School of Medicine is not accredited in the United States.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: No, Mr. Speaker, I did not say that because that would not be a representative of the facts. What I said is that it is currently pursuing accreditation from the Accreditation Commission on Colleges of Medicine, which is authorised by the United States Department of Education.

It is my understanding that throughout the United States there are various and varying accreditation commissions. There is an Accreditation Commission for Independent Colleges and Universities; there is the Accrediting Commission for Southern Colleges; there is the Accrediting Commission for Colleges in the Northwest, et cetera. So, I did not say that this institution is not accredited in the United States.

The Speaker: The Second Elected Member from George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker, but I am becoming increasingly confused. Maybe if I asked the question again in a more straightforward manner: Is or is not the St. Matthew's University School of Medicine presently accredited in the United States of America?

The Speaker: The Honourable Minister for Education.

Hon. Roy Boddén: Mr. Speaker, it most certainly is, Sir.

Question No. 25
(deferred— Standing Order 23(5))

Hon. W. McKeeva Bush: Mr. Speaker, I move that question No. 25 be deferred, as the Member is not in the House today.

The Speaker: The question is that in accordance with the provisions of Standing Order 23(5), question No. 25 be deferred until a later sitting. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Question No. 25 Deferred.

Question No. 26

The Speaker: The First Elected Member from George Town.

No. 26: Mr. D. Kurt Tibbetts asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economics, to state government's position on the recently announced decision by local insurance providers to agree on the same rates.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, the answer is given in the context that the question refers to property insurance rates. The reinsurance market determines what is known as a 'base rate' for property insurance. This rate was increased in March 2001 and there was a further increase in October 2001 following the events of 11 September 2001. It is the fixing of this 'base rate' for 2002 that has probably prompted the question asked.

The 'base-rate' determined by the reinsurance market is specific to the Cayman Islands and it is understood that our rate is more favourable than that applied to others in the Caribbean region—reflective of the Cayman Islands' high standard of building construction and the assessment that we have a smaller chance of a direct hit from a hurricane, given our geographical location, than others in the region.

The general public will not pay the 'base rate'. Local insurance companies are free to charge any amount above this 'base rate' and the extent of the amount so charged will be a reflection of the risk assessment for the property being insured. As an example, it is expected that beachfront property where risk of damage due to storm action is greater than those

properties further inland, will attract a higher premium than properties in a less exposed location.

The rates payable by the public for property insurance is therefore likely to vary from one insurance provider to the next, and even in respect of coverage provided by the same insurer there will be variation in the rates charged—to reflect differing assessments of risk on properties being insured.

In conclusion The Government recognises that notwithstanding that property insurance rates are determined by market forces, a small committee under the chairmanship of the Deputy Financial Secretary will be appointed to meet with the property insurance providers to discuss the basis of the recent increase and to report the findings to Executive Council.

The Speaker: Are there any supplementaries?
The First Elected Member for George Town.

Supplementaries

Mr. D. Kurt Tibbetts: Thank you.

If the Honourable Third Official Member might jog his memory he might remember that not so very long ago there was a news item where one of the insurance brokers publicly expressed disappointment in the coming together of the various companies to deal with these rates. My understanding at that point in time is not what the answer is giving here now and I am wondering whether there is absolute clarity with regards to the way the answer has been crafted and delivered.

My question is: Is the Honourable Third Official Member saying that there is no decision made by the various property insurance providers in the Cayman Islands whereby they are coming together to decide on rates that are across the board for all of them?

If you will bear with me, I just want the Member to know that I understand the difference between what is speaking to base rates and what over the counter rates are, so I do not need that to be clarified.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I understand the question as posed by the Honourable First Elected Member for George Town. However, this is a matter that will be looked into under the chairmanship of the Deputy Financial Secretary in terms of whether there is any form of collusion that has taken place in this matter.

I recall the statement in question that the Member is referring to but I would rather the findings be arrived at through discussions that will be taking place by the Deputy Financial Secretary, his team and the insurance industry representatives before I can be specific in terms of the response. I know the answer that the Member is driving at but I cannot give an affirmative answer at this point in time until the discussions take place.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Mr. Speaker, can the Honourable Third Official Member inform me as to whether this small committee was formed prior to him receiving this question or subsequent to receipt of the question?

The Speaker: the Honourable Third Official Member.

Hon. George A. McCarthy: Subsequent to the receipt of the question, Mr. Speaker.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. I will turn this into a question but I think it is important that all of us, and I am not pointing at the Third Official Member because he is the only one in the world who holds responsibility—but it is important for all of us to understand that if this is the case, or if it is anywhere near the case, everyday that passes, every single individual and entity in this country are paying the price for it.

I would ask for an undertaking from the Member that this matter be expedited as quickly as possible to come to a point where the Government can take a position.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I understand what the Member is seeking for but although we have had fluctuation in rates there has been the reference to market forces, and quite recently I spoke to the representative of one of the insurance companies. In fact, this gentleman has been appointed by the industry to speak on their behalf. He gave me a statement, which if you would permit me to read the statement I would do so for the edification of this Honourable House, and also to Table a copy of this statement for the benefit of Honourable Members.

The Speaker: So ordered.

Hon. George A. McCarthy: Mr. Speaker, this statement was prepared by Mr. Danny Scott, president of Cayman Islands Insurance Company and it reads:

“General Insurance Industry Overview

Immediately prior to the unprecedented terrorist attacks in the United States on the September 11, 2001, the Global insurance industry was in transition between a severe soft market and a hard market. Insurance capacity had reached historically high levels in 1999, which led to downward pressure on premium rates; weakening investment performance coupled with higher than usual losses worldwide resulted in a period of declining profitability, as a result, insurance and re-

insurance premiums started to rise towards the end of 2000 and continued into 2001, to meet shareholders demands for a return to profitability. Property rates in the local market rose steadily during this period.

It was at this critical period that the events of 11th September 2001 occurred. The event will produce catastrophic losses in several areas of insurance underwriting, and will impact all the major reinsurers worldwide, both directly and indirectly. With falling interest rates and uncertain investment returns, reinsurance premiums rose significantly, not only to generate a ‘payback’ for the September losses, but also to offset the decline in investment income that had been a major contributor to the ‘bottom line’ during the period of strong investment results. The reinsurers that absorbed the September 11th losses are the same reinsurers used by the local underwriters.

Local Market

Against this background, the local and regional insurers underwriting business in this market prepared themselves for the renewal of their reinsurance treaties. It is important at this juncture to address the country’s dependency on the reinsurance industry. Insurance companies in Cayman, presently underwrite property business in excess of \$5 Billion. Because our Islands are exposed to the twin catastrophic exposures of hurricanes and earthquakes, the capital required by the local insurance industries to cover the potential losses could be well in excess of \$2 Billion. With gross premiums of \$62.5 Million, the required level of capital is unsupportable. But the need for capital is very real and this is provided to us by the reinsurance industry at a price that fluctuates from year to year. If the industry is not prepared to pay the price the capital/protection will not be available.

The renewal conditions facing the local insurance industry were not dissimilar to conditions in 1993 following the impact of hurricane Andrew of Florida (the largest catastrophic loss prior to September 11th). For the renewals following ‘Andrew’, the local insurance approached the renewal process as a fragmented body, very much maintaining the competitive spirit of looking for an advantage over the competition. The result of this fragmented approach was a falling away of support for many of the local underwriters, resulting in an upward spiraling of rates.

Remembering what occurred in 1993. The local insurance industry was determined to protect the local industry from the price gorging that occurred then. We (the insurance industry representatives) took the view that a more cohesive approach was required, we were aware that insurers would be seeking increased terms from us as they

were from all insurers worldwide. Our approach took the form of a market agreement (gentleman's agreement) that provided for minimum rates to be established on a construction, occupation and location basis. Unlike 1993 all treaties were renewed successfully and the market shortfall that occurred in 1993 was averted and property rates should not reach the high levels experienced in 1993.

It had been agreed by all underwriting companies, that following the renewal exercise we [the insurance industry] would request a meeting with Executive Council to explain the rationale behind our collective approach to the reinsurance process. I wish to take this opportunity to request such an audience at a time convenient to Members. Accompanying me will be Mr. Bryan Murphy of the Island Heritage Insurance Company".

This was received recently and has not been passed as yet, to the Honourable Ministers of Executive Council but will be done. This was given to me by Mr. Scott, yesterday.

It is important to note what he has pointed out; that the insurance requirement in Cayman is in the region of \$5 billion and with gross premiums of \$62.5 million, obviously, the local insurance market is very much dependent on the reinsurance market. The reinsurance market is based outside of Cayman and they take into account all of the risks that they have to contend with on a global basis. Taking into account the events of 11 September 2001, plus other losses, this is what the local insurance industry said that has pushed the local insurance rates quite significantly, although we are still, notwithstanding that push, in a more favourable position in comparison to the other countries of the region. So, I do understand what the First Elected Member from George Town has said. Against this background I am not sure what can be done to influence any change but the Deputy Financial Secretary will be asked to expedite his discussions with the industry, as quickly as possible.

The Speaker: First Elected Member from George Town.

Mr. D. Kurt Tibbetts: Thank you. Could the Honourable Third Official Member give an undertaking to have an independent fact finding assessment done with those other territories which he mentioned, in order to bring the rates to a single currency and, considering all the factors in those territories, make comparisons to see if it is indeed a fact that the rates charged in the Cayman Islands puts us at an advantage or a disadvantage?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: I can give that undertaking, Mr. Speaker, and I will ask the Deputy Financial Secretary to encompass this additional expectation.

The Speaker: If there are no further supplementaries, we will move on to the next question.

Question No. 27

The Speaker: Question No. 27.

The First Elected Member for George Town.

No. 27: Mr. D. Kurt Tibbetts asked the Honourable Third Official Member, responsible for the Portfolio of Finance and Economics, to give an update on the proposed bond issue announced in the 2002 Budget Address.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: The Government received its first presentation on the details of a bond issue, and how it could assist the Islands with its finances, in October 2001. A second presentation was received on 20 November 2001 from a local bank. That local bank has provided updates to its initial presentation, as follows: on 23 November 2001; on 3 January 2002; and on 11 February 2002.

A third presentation was given to the Government in December 2001.

Mr. Speaker, the Government received details of another financing arrangement last Friday, 1 March. The Government has asked that a presentation be made in respect of this most recent arrangement.

The reason the Government is proposing to issue a bond is simply that it will assist the Cayman Islands in reducing the annual cost of its debt servicing over the medium term. Analysis done by the Portfolio of Finance shows that over the period 2002 to 2006, a bond issue would reduce the total debt service for those years by approximately \$33 million.

Mr. Speaker, it is Government's current intention to take a substantial portion, if not all, of those debt service reductions into General Reserves. The Government plans to finalise consideration of the bond issue this month.

The Speaker: Are there any supplementaries?

The First Elected Member from George Town.

Supplementaries

Mr. D. Kurt Tibbetts: Thank you. Can the Honourable Third Official Member state what is the amount being sought for the bond issue is?

The Speaker: The Honourable Third Official Member.

[Pause.]

Hon. George A. McCarthy: Mr. Speaker, as I mentioned earlier, the bond issue under consideration, as I mentioned earlier, would generate a reduction in debt service payments of \$33.3 million over the period

2002 to 2006, amounting to \$143.5 million. That equals the public debt and self-financing loans as at 31 December 2001. This figure is being looked at because there are certain loans within the package, at this time, for which the Government is paying a minimal rate. It would be advantageous for the Government to continue to keep these loans separately. The direct public debt loan the Government is carrying at this time amounts to \$129.5 million. The self-financing element amounts to approximately \$14 million. Notwithstanding these figures, a determination can be made as to what the appropriate sum would be to include under the bond issue, and that will be finalised by the end of this month. Further presentations will have to be made between now and the end of the month in order to agree as to what firm figure the Government should be driving towards.

As I mentioned, the Honourable First Elected Member from George Town is aware of the composition of the package, because it was from his administration that the process was started.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Honourable Third Official Member say what term is being sought for the bond issue?

The Speaker: The Honourable Third Official Member.

[Pause.]

Hon. George A. McCarthy: Mr. Speaker, the bond issue will be for a period of about 10 to 12 years. The recent rate (the one that we are looking at) is in the region of 6.27 per cent.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Member state whether that is a fixed rate or a floating rate?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, it would be fixed over the life of the bond.

The Speaker: The Third Elected Member from Bodden Town.

Mr. Anthony S. Eden: Thank you, Mr. Speaker. On the first page of the substantive answer the Honourable Member refers to another financing arrangement last Friday. Does this also involve the issuing of bonds or is this another vehicle being used?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: These are various institutions that have put proposals to the Government in connection with the bond issue.

The Speaker: The Third Elected Member for Bodden Town.

Mr. Anthony S. Eden: Thank you, Mr. Speaker. Historically, over the last 30 – 35 years, governments have tended to shy away from the utilisation of bond issues. Is the approach now being changed?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, the Government has rightly shied away over the past years. At this point in time, if the arrangements were not as they are going to be prepared or considered, it would be something that would also be looked at very carefully, with caution. What the Government is proposing is to put in place a sinking fund, which means that, although the interest on the bond will be serviced over the life of the bond issue, when it comes to the maturity of the bond, sufficient funds would have accumulated in that sinking fund account to offset or settle the indebtedness.

This is a very carefully planned approach that is being taken. This is the approach that has been the concern of all past governments, and of the current Government. It is one that will be adhered to, and it serves the purpose of reducing the cash outflows by way of public debt payment at this point in time, while not putting the Government at a disadvantage.

The Speaker: Are there any further supplementaries? We will move on to the next question.

Question No. 28

The Speaker: Question No. 28.

The First Elected Member for George Town.

No. 28: Mr. D. Kurt Tibbetts asked the Honourable Minister responsible for Health Services, District Administration and Agriculture, to advise on the status of the ongoing research being conducted by the Health Fees and Health Insurance Advisory Committee in conjunction with the William Mercer consultants.

The Speaker: The Honourable Minister for Health Services.

Hon. Gilbert A. McLean: Mr. Speaker, William M. Mercer is contracted to examine the Government's current health benefits system for the population it currently assumes responsibility for, and make recommendations on its restructuring. The main focus is to set up a system to control health care cost and capture relevant data for future decision-making.

The consultancy which commenced in November, 2001 is due to be completed by the end of this year. The contract is divided into three major phases:

Phase I—Discovery and Analysis of relevant data.

Phase II—Strategy Mapping/Programme Redesign;

Phase III—Implementation and Procurement of a Third Party Administrator.

Government maintains the option of terminating the agreement at the completion of either phase.

Phase I is due to be completed on 15 March 2002 with a report being presented to the Health Insurance and Health Fees Advisory Committee. This Committee operates under the chairmanship of the Permanent Secretary responsible for Health Services.

Phase II is expected to end in May 2002. During this phase the results of the findings from Phase I will be used to create a comprehensive redesign strategy for the health insurance programme for the Government of the Cayman Islands.

Phase III involves implementing the redesign programme after appropriate groups and stakeholders have received and agreed the strategy for change. The Government may decide at this point to create a special task force to lead the implementation effort. The selection of a Third Party Administrator (TPA), a body whose responsibilities would include managing the processing and settlement of claims, accumulating health-care cost data and ensuring proper usage of the system will be made at this time. As claim experience becomes credible, Government will then be in a position to make decisions on shifting the risk for the healthcare cost to an outside vendor.

The Speaker: Any supplementaries?

The First Elected Member from George Town.

Supplementaries

Mr. D. Kurt Tibbetts: Thank you. The substantive answer given is concise and very clear. I hope that the Minister will allow me to stray a bit from the substantive question. In gathering all of this information in conjunction with the William Mercer Group, has the Ministry given any consideration in trying to capture data, which would give them some type of empirical evidence relating to health care cost and subsequent health insurance costs, to the public? This is certainly a huge question mark in the minds of many people understanding that the answer relates specifically to government's position with providing health care and health care costs of the Civil Service.

The Speaker: The Honourable Minister for Health Services.

Hon. Gilbert A. McLean: Mr. Speaker, the process at the Hospital does allow for the capture of data as the Member has asked about. A new registration system, which in effect is starting as if from anew is capturing

both data in terms of number and the types of services that are being sought at the Hospital, and based on that type of information (plus information presently available within the Hospital) costings are being examined in terms of cost of procedures. Also, the new computerised system, which is being examined, will also provide better capability for keeping that data, analysing it and being able to cost it.

The Speaker: The First Elected Member from George Town.

Mr. D. Kurt Tibbetts: Thank you. As the Honourable Minister will appreciate, I am sure, the questions that will arise in the minds of the public, again straying, would be the cost of providing health care by the private sector and as a result the cost of health insurance charged by the health insurance providers. Similar to the question asked about property insurance some minutes ago, will this data allow Government to be in any position to be able to make some assessment as to what may seem to be fair or have dialogue with the providers of both health care and the insurance, with regards to making sure that the rates are regularised?

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Mr. Speaker, part of the phase I examination of Health services by William Mercer includes talking with private sector providers including getting data as to their costs and also the collection of data within the present health systems and the analysing of it. We are also at this stage already in a position to compare some of the costs in terms of what is being charged in the private sector for a particular procedure and we have comparisons with Baptist, for example, and what our own facility charges for a particular procedure.

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

Mr. D. Kurt Tibbetts: Thank you. Getting back to the substantive answer in the very last paragraph, I think, where it says that 'Phase III involves implementing the redesign programme after appropriate groups and stakeholders have received and agreed the strategy for change. The Government may decide at this point to create a special task force to lead the implementation effort. The selection of a Third Party Administrator, a body whose responsibilities would include managing the processing and settlement of claims, accumulating health care cost data and ensuring proper usage of the system will be made at this time.' Can the Minister state if there are specific options which are being examined in regards to one course of action or the other, once the third phase of the study has been completed and the report has been made?

The Speaker: The Honourable Minister for Health Services.

[Pause]

Hon. Gilbert A. McLean: Mr. Speaker, as each phase of the consultancy goes along data is being captured along the way and the health fees advisory committee is looking at all the information which comes into it. The Third Party Administrator seems to be the way to proceed with regards to getting best value for money. That is, choosing an administrator who will actually manage costs for us. It is my understanding that when this system works well, it is the type of administration that can actually compare costs and get the best cost. For example, if the Government Hospital does not offer a favourable price for a particular procedure then a civil servant may be referred to a private sector facility that gives a better price. Particularly, for overseas referrals, the Third Party Administrator would have to be an entity that had knowledge of costing and prices in various hospitals, at least in Florida that is near to us, and they would actually shop for the best price possible for a particular patient or procedure.

The Speaker: The First Elected Member for George Town. I will allow one more supplementary.

Mr. D. Kurt Tibbetts: This is my final one, Mr. Speaker, never fear. Thank you, I could sense it.

Again, knowing that this question is straying but certain that the Honourable Minister will appreciate the reasoning behind it. There is a category of persons in this country who are deemed to be uninsurable; some of them for various illnesses and some of them after reaching a certain age. Now, at present whatever level within the society that is, certainly that is expected to rise as time goes on. My question to the Minister is: In all of these dealings with regards to looking at the cost of providing health services and also the cost of insurance for the Government body (civil service), might the Government be seeking ways and means to address this specific situation, which certainly is getting more acute as time goes on?

The Speaker: The Honourable Minister for Health Services.

Hon. Gilbert A. McLean: Mr. Speaker, already under the present Insurance Law we have a provision for taking in certain monies under the indigent and uninsurable fund, and it is money from this fund, which would be slated to actually cover the costs for the truly indigent and other persons who cannot get health insurance. It does appear that at some point everybody in the country is going to fall into this particular category. Under this self funding scheme it is forecasted now that it will provide sufficient monies to cover these people if and when they do fall into that situation and they do not have relatives who are able to assist them

one way or the other. It does appear that the self-funding scheme, at some point in time, is likely to go outside of the Civil Service realm as it presently is, simply to be able to provide health coverage for the poor and the indigent.

The Speaker: Are there any further supplementaries? I had said one more after that one. If there are no further supplementaries we will move on to the next item of business.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have been advised that Minister Bush, the Honourable Minister of Tourism and Leader of Government Business wishes to make two statements.

Cayman Airways Limited

Hon. W. McKeeva Bush: Thank you, Mr. Speaker.

On the 7 January the Cayman Airways Board held a strategic planning retreat, which I as Minister for the national Airline was invited to participate in. At that meeting I presented the Board with Government's position in respect to the Airline. Among the key directives that I presented were the following:

1. There must be a meaningful and measurable turn around to ensure the continuation of the Airline.
2. Government was willing to support Cayman Airways provided the Airline was deemed a viable entity. The Board was encouraged to be candid and objective in its estimation of the Airline.
3. There would be no consideration of new equipment until the Airline could produce a sound business plan and demonstrate an ability to live within its budget. The focus should be on the equipment facilitating the Business Plan rather than the other way around, as was previously being done.
4. Efficiencies must be made at Cayman Airways. Going forward Government intended to place a ceiling on the Airline's subsidy. This will only be done from an informed position. The Board was requested to provide guidance on this matter.

Based upon these objectives management was given a mandate by the Board to produce a business plan by mid-February, which was consistent with the objectives as laid down by Government. The Board recently presented the Cayman Airways Limited 2002/2003 Business Plan to Executive Council. This was formally accepted and approved yesterday subject to management meeting their objectives as set out in the Plan. The success or failure of this Plan will depend entirely on two key components. One component is the management's delivery of the key objectives of this Plan and another is the successful negotiation with the Pilots to restructure their contract of employment.

Mr. Speaker, clearly the Government supports the business plan for Cayman Airways, as it is now in the hands of the Airline's management as well as the Pilots to ensure its success.

Over the past several years, Cayman Airways has struggled to compete for its market share as major international airlines increased service to the Cayman Islands. The decrease in air travel after 11 September 2001 has made the need for rapid improvements at Cayman Airways critical for its survival. The primary objective is to implement a series of short-term reactions for 2002 designed to reduce the imbalance between revenue and expenses. The key priorities are to off set the expected decrease in revenue while reducing the operating costs. The Business Plan and 2002 Budget assumes that although gradual improvements will occur the travel industry will not fully recover from the effects of 11 September until the end of 2003.

Revenue Enhancement: Mr. Speaker, the Business Plan and 2002 Budget indicated an expected decline in total revenue of \$1.7 million or 5 per cent compared to 2001. The decline is the result of the negative impact of 11 September 2001, partially offset by the 2002 Sales and Marketing Plan. Although the revenue is expected to decline by 5 per cent compared to 2001, the revenue per flight is expected to increase by 16 per cent as a result of the reduction in flights this year.

The Company's plan to minimise the revenue (declined in 2002) is comprised of an extensive list of projects. The projects include the launch of Internet bookings; introduction of electronic ticketing; development of a US base sales team; establishment of detailed sales targets for each sales representative; implementation of a code share agreement with a major US partner; establishment of significant discounts via Internet for week flights; working closely with local tourism industry members and improved customer relations. So, there is now an existing marketing plan and this will be complemented by an improved relationship with the Department of Tourism as mandated by me.

Mr. Speaker, the Department of Tourism and Cayman Airways must work together in the marketing and promotions of our tourism industry. This is a very sensible approach and it is rather unfortunate that such a relationship did not exist before. The decline in revenue will be greatest in the first quarter of this year due to a decline in traffic combined with reduced fares, and will improve steadily as the sales and marketing programmes begin to produce results.

Cost Reduction: Mr. Speaker, although the Airline's first concern is to enhance revenue, the Company must reduce the costs of operations. The Business Plan and 2002 Budget will produce a decrease in operating expenses of \$7.7 million or 16 per cent compared to 2001. The 2002 budget reflects a reduction in salaries and wages of \$1.8 million or 14 per cent over 2001. Based upon the reduction in staff, 46

per cent of the expected savings for 2002 have already been implemented earlier this year. Mr. Speaker, there were fluctuations in the number of employees between January and December 2001. At the 31st December 2001, Cayman Airways employed 292 fulltime employees. A further 16 positions have been identified for elimination in early 2002. Based upon the detailed analysis being performed, the Company expects to identify additional positions for elimination in May 2002.

The 2002 Budget reflects a reduction in other staff costs of \$900,000 or 26 per cent over 2001. The large improvement reflects the reduction in total staff, as well as restrictive policies and overtime travel and related discretionary expenditures.

Mr. Speaker, this year's budget indicates a reduction in fuel expense of \$1.1 million or 19 per cent over 2001. The improvement is mostly due to a 14 per cent reduction in flight hours combined with a moderately lower average fuel price. The 2002 Budget produce a \$1.4 million or 42 per cent reduction in other maintenance expense over 2001. The reduction is due to changes in the policies and controls within the maintenance department. The 2002 Budget produces approximately \$1.1 million or 87 per cent reduction in aircraft rental expense over 2001. The 2002 Budget reflects a reduction in all other expenses of \$1.5 million or 7 per cent over 2001. Most of this decrease is due to operating 18 per cent fewer flights in 2002 compared to 2001. However, the reduction also reflects the savings of numerous smaller projects, such as closure of expensive leases and restrictions on telephone access.

The new co-schedule represents a 20 per cent reduction over last year and will eliminate all overnight flights to Cayman Brac. While these reductions have been difficult, they are absolutely essential to bring the national carrier back to sound financial ground. We are exploring other partnerships with Island Air in order to better serve the Sister Islands. Cayman Brac will have jet service on Monday, Saturday and Sunday mornings and on Friday and Saturday evenings. There will be no over-nighting in Cayman Brac.

Although the 2002 Budget produces a net loss of \$2.5 million, Cayman Airways will not require any cash injection directly from the shareholder beyond the annual subsidy. The 2002 Budget represents an improvement to net income of over \$6 million from 2001. I believe that it is important to underscore the significance of the change occurring with the Airline. In comparison to 2001, Cayman Airways has budgeted to reduce its operating expenses by \$7.7 million this year.

I wish to particularly point out that for the first time in recent history, the Airline has included in its budget approximately \$2 million to pay fees to the Civil Aviation Authority and other governmental agencies. It should be noted that were it not for this budgetary provision the net loss at year-end projected

would be \$500,000; a significant improvement over the past several years. Now, the Airline must deliver.

Public Relations Programme: There is now a new public relations programme. The critical first step is to restore customer confidence by initiating a turn around campaign in our local market. The over-riding objective is to reassure the public that the Airline will continue to offer reliable service. In addition, the campaign will seek to dispel some myths about Cayman Airways, for example, the myth that Cayman Airways causes higher airfares for all airlines operating into the Cayman Islands. The campaign will initially focus on staff in order to build consistent support for the programme. The campaign will involve working closely with the Cayman Islands Department of Tourism; focus on the North America travel trade and to pursue co-op promotional opportunities.

Beyond 2003: A critical task in 2003 will be a thorough strategic analysis and development of a strategic plan for the Company. The current fleet must be upgraded at some time in the near future if we are going to continue as an airline. The ideal time to upgrade the fleet would be 2003 because the existing fleet is scheduled to undergo significant overhaul expenditures in 2004. Prior to making a fleet decision a proper strategic plan must be developed and measurable strides must be made in the implementation thereof. Clearly, the events in 2001 will bring profound changes to the competitive landscape on which Cayman Airways must operate. Questions about the short-term viability of industry Titans like United and British Airways, will lead to realignments and restructuring that may provide new possibilities for small to mid size carriers.

Cayman Airways must continue to build a sound foundation in order to capitalise on emerging opportunities. The process of building a coherent network through the careful introduction of contingent routes combined with the formation of marketing alliances and co-chair agreements will continue. The Company should be in a position to finance a fleet renewal programme in 2004, which will require a profitable and efficient route network supported by a disciplined costs structure. Cayman Airways will continue to evolve a corporate culture based on accountability and achievement. Communication, training and succession planning will be an integral part of the evolutionary process.

Beyond the revenue that is collected by Cayman Airways, the Airline makes a significant contribution to the economy. Now, Cayman Airways has to undergo restructuring and face keener competition, but this is the reality of the world we live in, and Cayman Airways must be prepared and able to make meaningful change to compete in what is perhaps one of the most competitive industries. Thank you, Mr. Speaker.

The Speaker: Honourable Minister for Tourism your second statement.

American Airlines non-stop flights from New York to Grand Cayman

Hon. W. McKeever Bush: Thank you, Mr. Speaker.

I am pleased to advise this Honourable House that American Airlines confirmed yesterday that they will commence direct non-stop flights, twice weekly, from New York's John F. Kennedy (JFK) Airport to Grand Cayman. Effective 15 June 2002 the United States largest airline will begin its second route to the destination with service on Saturdays and Sundays. Flight No. 639 will depart JFK at 9 am arriving in Grand Cayman at 11.55 am. The return flight No. 662 will depart Grand Cayman at 1 pm arriving in JFK at 5.34 pm.

This new non-stop service from New York, the most important region of our most important market, the United States, will serve our tourism industry well and it underscores my statement made in this Honourable House, recently, that tourism is in fact on the rebound. We have worked hard over the past year to improve our airline industry relationships and we are pleased that we enjoy such a productive relationship with them and, in particular, with American Airlines.

I wish to point out that six major US airlines now provide scheduled non-stop service to Grand Cayman from key US markets. I can assure this Honourable House that I will continue my efforts to attract additional airlift to the Cayman Islands from other major US markets. I give my assurance to this Honourable House and to the public that I will provide up dates along the way.

Thank you, Mr. Speaker.

The Speaker: We will now take the luncheon suspension and we will resume at 2.30 pm.

Proceedings suspended at 12.24 pm

Proceedings resumed at 3.16 pm

The Speaker: Please be seated. Proceedings are resumed.

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

The Parliamentary Pensions (Amendment) Bill, 2002

The Speaker: The Bill has been deemed to have been read a first time and is set down for Second Reading.

Suspension of Standing Order 46(1) and (2)

The Speaker: Can we have the suspension?

Hon. W. McKeever Bush: Mr. Speaker, I move for the suspension of Standing Orders 46(1) and (2) in order to do The Immigration (Amendment) (Immigration Appeals Tribunal) Bill, 2002 and The Animals (Amendment) Bill, 2002.

The Speaker: The question is that Standing Orders 46(1) and (2) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46(1) and (2) suspended.

The Immigration (Amendment) (Immigration Appeals Tribunal) Bill, 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for a Second Reading.

The Animals (Amendment) Bill, 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for Second Reading.

Suspension of Standing Orders 45 and 46(1)& (2)

The Speaker: Can I have the Minister move the Motion for a suspension of Standing Order 45?

Hon. W. McKeever Bush: Mr. Speaker, I move for the suspension of Standing Order 45 in order to take the Information and Communication, Technology Authority Bill 2002.

The Speaker: The question is that Standing Order 45 be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Orders 45 and 46(1) and (2) suspended.

The Information and Communications Technology Authority Bill, 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for Second Reading.

SECOND READINGS

The Parliamentary Pensions (Amendment) Bill, 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of a Bill entitled, The Parliamentary Pensions (Amendment) Bill, 2002.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

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

This Bill for a law to amend the Parliamentary Pensions Law makes provision for the payment of a pension to any person who held the position of Speaker of the Legislative Assembly on or after 1 January 1991, as well as to make provisions for inflation protection on an annual basis in the same manner as found in the Public Service Pensions Law.

Currently the position of Speaker of this Honourable House is entitled to a pension only if the Speaker is also an Elected Member of this Honourable House. The House has in the past, seen Speakers who are in fact, not elected and were therefore not entitled to any benefit under the existing Parliamentary Pensions Law. The proposed amendments would allow for the pension benefits to accrue to any person who has held the position of Speaker of this Honourable House since 1991. If the Speaker was an Elected Member also, then the Speaker's pension would substitute for the Member's pension, and would be calculated in the same manner as that of a Member of the Legislative Assembly, being 1 3/60 of the Member's final average pensionable earnings for every month of service.

The proposed amendment would also serve to modernise the current law by changing the reference from widow to the gender-neutral term of spouse, thus allowing benefits to be easily applied to the male spouse of the female Member. The last component of this amendment will introduce an element of inflation protection to the Law. This has been modeled after the Public Service Pension's Law, which provides this benefit to retired civil servants. In the past such increases have been discretionary but this amendment would include them in the plan as a guaranteed benefit, based on the increase in the consumer price index of the Cayman Islands over the previous year. Pensioners are in the position of not being awarded increments, and as a result, the only increase that they would be entitled to is an annual cost of living augmentation. In times of high inflation this could be very important to the pensioners' ability to maintain his or her standard of living.

In summary, the amendment will do the following:

- ◆ Provide a pension for the position of Speaker of this Honourable House from 1 January 1999 forward at the same rate as the Member's pension.

- ◆ Modernise the wording of the Law by replacing the term 'widow' with 'spouse'.
- ◆ Introduce an inflation protection to the plan on par with that being provided to the Civil Service.

Mr. Speaker, there is an amendment, circulated to Honourable Members. They will notice that the age of retirement in the amending Bill says 60 whereby in the Law itself it is 55. This Bill makes the amending Bill compatible with the law. Thank you very much.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Final call, does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: Mr. Speaker, just to say thanks to Honourable Members for their tacit support.

The Speaker: The question is that a Bill shortly entitled, The Parliamentary Pensions (Amendment) Bill 2002 be given a second reading. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Parliamentary Pensions (Amendment) Bill 2002 given a Second Reading.

The Immigration (Amendment) (Immigration Appeals Tribunal) Bill, 2002

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Mr. Speaker, I move the Second Reading of a Bill entitled, The Immigration (Amendment) (Immigration Appeals Tribunal) Bill, 2002.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. James M. Ryan: Thank you, Mr. Speaker.

As an introduction or a little bit of background to this Bill, the Immigration Law 2001 Revision empowers the Immigration Board to make decisions in respect to granting of granting Caymanian Status, Permanent Residence and work permits. The Law also provides that persons who are aggrieved by or dissatisfied with the Board's decision may appeal to the Governor. The Governor is defined as the Governor in Council.

In the year 2000 the Immigration Board considered over 20,000 applications for grants and renewal work permits or variations for work permits and permanent residents. Of these applications some

3,910 were unsuccessful and in turn appeals were lodged in respect of 231 of these negative decisions. Of these 14 related to applications for Caymanian Status, 36 related to Permanent Residence and 181 related to work permits.

During the last quarter of 2000 a fee of \$100 was introduced in respect of appeals and it was expected that this fee would have had some dampening effect on a number of appeals, and of course, to help with the recovery of the cost associated with the appeal. In 2001 the number of appeals submitted was 199.

In taking the decision to bring this Bill it was felt that it is time to relieve the Governor in Council of the role of being the appellate tribunal under the Immigration Law and instead recommend to this Honourable House that legislative provisions be made for the establishment of an appeals tribunal. The Government has been guided by two criteria; the performing of a routine appellate role as a very costly use of Executive Council's time, and perhaps, the contamination of roles when the body setting policy (Executive Council) and the body appointing (the Immigration Board) are also serving as arbiter in respect of appeals.

Mr. Speaker, this Bill serves to introduce the concept of the appellate tribunal. The Memorandum of Objects and Reasons states: "**The Immigration Appeals Tribunal shall consist of a chairman and a deputy chairman, both of whom shall be experienced attorneys-at-law and six other persons appointed by the Governor in Council.**" It goes on to say: "**if a Member of the Immigration Appeals Tribunal has a personal or pecuniary interest, direct or indirect, in any matter, which is to be determined by the Immigration Appeal Tribunal, he shall, at the meeting of the Immigration Appeal Tribunal at which such matters is to be determined, as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of such matter or vote on any question with respect thereto. Appeals to the Immigration Appeal Tribunal shall be by way of rehearing and both parties to the appeal shall be permitted to address the Immigration Appeal Tribunal. Appeals may be made to the court against the decision of the Tribunal on a point of law only.**"

Mr. Speaker, I have given notice of a Committee Stage Amendment and that will come a little later on in the proceedings.

Finally, I would just like to say that I am delighted to be able to present this Bill to this Honourable House today. I believe it marks a substantial advancement in an important area of our service to the public, particularly, on Immigration related issues. As you know, those issues are important and are often very emotive. This proposed Bill makes a contribution to the advancement of the process of these types of

matters. I therefore commend this Bill to all Members and solicit their support. Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak? The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. I rise to offer a few comments and my support to this proposed amendment to the Immigration Law.

This establishment of an Immigration Appeal Tribunal is a concept, which I articulated and supported during the run up to the elections in 2000, I have always felt, as was recognised by the Honourable First Official Member, that it is wrong in principle for Executive Council who promotes the legislation; who promulgates the regulations and who issues the directives to the Immigration Board, which it had previously appointed, to then assume the role of interpreter of that legislation, regulations and directives and then go on to also decide individual cases. Aside from the obvious and explained increased work load for Executive Council, it creates the perception of personal or political interference in the decision making process in relation to Immigration matters, particularly, work permits, Caymanian Status and the grant of Permanent Residence. That is a perception, which has been around for a long time to the extent that this proposed amendment will alter the perception and the reality; it is to be commended and certainly warrants support.

Mr. Speaker, there is long standing precedent for what is proposed here in the form of the Planning Appeals Tribunal, which has been around for a long time and in more recent times, the Labour Appeals Tribunal, which are structured in much a similar fashion. I think there is good sense in having the Chairman and Deputy Chairman of the Tribunal, to be both experienced lawyers. Because of their profession they will be able to ensure to a large extent that errors in procedures, in particular, are not made which would result in applications for judicial review of decisions of the Tribunal, in cases where the principals of natural justice were breached or decisions were found to be unreasonable, in the sense that no reasonable tribunal could possibly have come to the decision which that particular tribunal did. I believe that having them on board as chairman and deputy chairman, they will understand the significance of these principles and procedures which will do much to enhance the credibility and the work of the Tribunal.

I should also say that I am certainly in agreement with limiting appeals from the Tribunal to the court to points of law only. Knowing that they would have had a full hearing before Immigration Board; a re-hearing before the Appellate Tribunal, so to give individuals a 'third bite at the cherry' would only serve to slow down the process to have the whole decision making dragged on interminably and the system

would then lack certainty, certainly for quite a long period. I believe that it is the right thing. I am happy that it has come about; happy that Executive Council has been relieved of this very difficult and time consuming responsibility; happy that there will be, I believe, an enhancement of the feeling that the system is fair; the system is unbiased; the system has little political interference in the individual decision making, and that Executive Council's role is limited to essentially, policy.

So, Mr. Speaker, with those few comments, which I trust may have added to the perspective given by the Honourable First Official Member, I can say to you, Sir and to all Honourable Members of this House that this is a Bill which I can support.

Mr. Chairman, I know there is a committee stage amendment, which is proposed and do have some concerns about, but I am cognizant, Sir, that I should not speak to that at this stage of the debate on the Bill. Therefore, I will limit my comments to the substantive Bill before the House.

I should also say before sitting down that the Bill has the support of all five Members of the Opposition on this side of this Honourable House. I thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak? The Second Elected Member for West Bay.

Mr. Rolston M. Anglin: Thank you, Mr. Speaker. I rise to offer very brief comments on the Immigration (Amendment) (Immigration Appeals Tribunal) Bill 2002, which is before us.

In all things we should not only have independence but also we should have the appearance of independence. I think it has been long recognised that there needed to be a fundamental shift in the way in which matters that related to Immigration appeals were handled within the Cayman Islands. Mr. Speaker, I think the Honourable First Official Member put it well when he spoke to there being contamination of the role in which Executive Council plays currently, in regards to Immigration, in particular, the appeals process.

I do believe that the Bill does have a sound basis upon which it sits. I believe that when we look at the composition, the Board as it is being proposed, we see a sound consideration for what should lead to an effective appellate body in the Cayman Islands in regards to Immigration matters. The Bill calls for the chairman and deputy chairman to have at least seven years and five years respectively, for being called to the Bar. So, we do have now that possibility of having well experienced practitioners of law actually carry out this very important function in regards to Immigration and appeals of decisions of the Immigration Board.

The Bill certainly has my support and certainly has the support of the Back Bench Members on this side and we do commend this Bill to the entire House. I thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Last call, does any other Member wish to speak? If no other Member wishes to speak does the Honourable First Official Member wish to exercise his right of reply?

Hon. James M. Ryan: Thank you, Mr. Speaker. I would just like to thank the Second Elected Member for George Town and the Second Elected Member for West Bay for their comments and for their support of the Bill. I want to thank all other Members for their tacit support and look forward to the Bill continuing through its various stages to its completion. I thank you.

The Speaker: The question is that a Bill shortly entitled The Immigration (Amendment) (Immigration Appeals Tribunal) Bill 2002 be given a second reading. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Immigration (Amendment) (Immigration Appeals Tribunal) Bill 2002 has been given a Second Reading.

The Animals (Amendment) Bill, 2002

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Mr. Speaker, I beg to move the Second Reading of a Bill for a Law to amend The Animals Health Law (1999 Revision) To Provide For The Licensing Of Dogs, The Regulations of Dangerous And Prohibited Dogs; The Establishment of An Animal Welfare Advisory Committee; The Appointment of Animal Welfare Officers; And For Incidental And Connected Purposes.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. Gilbert A. McLean: Thank you, Mr. Speaker. This Bill amends The Animal Law (1999 Revision) ("the principal Law") in order to reform the Law under control and welfare of animals on the Island. The Bill also seeks to implement stronger measures to protect members of the public from dangerous dogs. The purpose of this Bill is to strengthen the existing Animals Law with respect to the proper care, control and welfare of animals in the Cayman Islands. Important benefits expected from this Bill include the protection of the general public and other animals from disease, the protection of life and limb, the improved welfare of animals through the strengthening of provisions to address cruelty to animals and the protection of an image of a more caring and responsible society.

Licensing of Dogs: Clause 3 addresses the licensing of dogs more thoroughly than previously addressed in the current Law. It was felt that the legal owner of a dog should be at least 16 years of age so that he or she could be held responsible for the proper care and control of the dog. This does not preclude children from having pets but to ensure that the overall responsibility for that pet lay with what could be termed a 'young adult'.

The regulations accompanying the Bill will seek a two-tiered licensing system in which dogs that are spayed or neutered will attract a lesser fee than dogs that are kept in tact for breeding. This should encourage responsible ownership through voluntary sterilization, one of the long-term measures needed to minimize the number of unwanted and stray dogs. Under the current law a dog in a public place without a collar and a licensed tag should be treated as a stray. This implies that once a dog is wearing a collar and a tag it can be allowed to roam in place of public resort.

Many cases of dog attacks and nuisances by dogs are caused by such dogs because they are not under proper control by their owners. The amendment addresses this by mandating that the owner of the dog or a person who has custody of the dog must ensure that while that dog is on a high way or other public place, it is on a lead and is wearing a collar with an identification tag bearing the license number.

Clause 4 of the Law addresses control breeding in order to deal with the problem of pet over population, which is affecting the Islands adversely. The number of stray and unwanted dogs continues to present serious challenges for the animal control unit of the Department of Agriculture and the Humane Society. Clause 4 inserts a new part which allows for the licensing and monitoring of businesses involving where animals are bred or kept, such as security kennels, pet stores or boarding kennels. Government wishes to ensure that such activity is subject to proper controls that these operations are carried out in a manner appropriate for the wellbeing of the animals that presents the least nuisance to the general public and protects the health and safety of the general public.

A person who wishes to carry out a business must be licensed by the Chief Agricultural and Veterinary Officer (CAVO). The Chief Agricultural and Veterinary Officer shall not issue such a license unless he is satisfied: 1) That the applicant is a suitable person to hold such a license. 2) That the premises where the activity will be carried out are suitable.

The license will be annual and subject to the payment of a prescribed fee.

Clauses 5 and 6 deals with dangerous dogs; prohibited dogs. Clause 5 repeals and replaces section 37 of the principal Law. The new section 37 provides that if a dog is dangerously out of control in a public place the owner, and if different, the person for the time being who is in charge of the dog is guilty of an offence. This section provides for stiffer penalties,

which amounts to being guilty of an aggravated offence, for the owner of a dog that bites or otherwise causes injury to people, either in a public place or in a private place other than where it is permitted to be.

Members of this Honourable House will recall cases or hearing of cases of dog attacks on children, and indeed, attacks by dogs where the dogs were actually set on people by delinquents with criminal intent for the dogs to cause injury. Certainly, owned dogs that were not under proper control by their owners in some instances also caused these attacks.

Clause 6 inserts section 37(a), (b), (c) and (d). Clause 37(a) provides that where a person has been convicted of an offence against section 37 or (b) where he or she is made to appear to a Summary Court that a dog has been dangerously out of control on more than one occasion or is likely to spread disease to any person or animal then the court can order either: 1) That the dog be handed over to the Department of Agriculture for the immediate destruction of dog by the Department or 2) That the person who is keeping the dog observes such requirements in relation to the future keeping of the dog as the court thinks fit to specify in the order.

The section maintains the intent of the existing law by allowing a court of summary jurisdiction to order a dangerous dog to be either kept under proper control or to be handed over the Department of Agriculture for destruction, and enhances it by providing for the disqualification from having custody of a dog for a period of time. This is important, as there are no provisions in the principal law to address repeat offenders. Mr. Speaker, history has shown that the mere imposition of fines has not been effective. The Government believes that disqualification from having custody of an animal would be an additional means of protecting the public from the unwelcome behaviour of such offenders.

Section 37(b) defines muzzles and leads. It refers to a dog being muzzled and to it being securely fitted with a muzzle sufficient to prevent it from biting any person. Reference is also made to a dog being kept on a lead securely held by a person who is not less than 16 years old.

Section 37(c) is about fowling of public places by dogs. It provides that if a dog defecates at any time, on any public place, and a person who is in charge of the dog at that time fails to remove the faeces from the public place forthwith, that person shall be guilty of an offence unless he has reasonable excuse for failing to do so. Mr. Speaker, this is not an uncommon section of law in dealing with animals for this is in place in various jurisdictions; one I know of is New York City where if you see people walking their dogs they are carrying their apparatus with them to scoop as they go. I also understand that this is the case in the UK. We have had complaints from persons who live on the Seven Mile Beach where this happens. People tend to take their dogs and simply let them loose. This occurs and, of course, people have

to deal with the unpleasant situation of stepping in the droppings where this occurs.

A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding \$2,000. Section 37(d) provides that the dog shall be regarded as being dangerously out of control on any occasion, on which there are grounds for reasonable apprehension that it will injure any person or domestic animal, whether or not it does so, do not include references to any case in which the dog is being used for lawful purposes by a constable or a public officer while carrying out his duties. Mr. Speaker, there are instances here where persons walk our streets with a dog and the dog is allowed to dash towards someone while the owner shouts in reassurance saying 'oh he is very friendly, he is not going to bite', but that does not help the person very much who is afraid of dogs and who feels very apprehensive that they are going to be attacked. So, this section also deals with that particular aspect of things.

Section 37(e) deals with prohibited dogs and section 37(e) (2) provides that no person shall-

- (a) breed or breed from a dog to which this section applies;
- (b) sell or exchange such a dog or offer, advertise or expose such a dog for sale or exchange;
- (c) make an offer to make a gift of such a dog or advertise or expose such a dog as a gift;
- (d) allow such a dog of which he is the owner or of which he is for the time being in charge in a public place without being muzzled and kept on a lead; or
- (e) abandon such a dog for which he is the owner or, being the owner for the time being while in charge of such a dog, allow it to stray.

Mr. Speaker, there is serious concern expressed in this country by many people about the different breeds of dogs, which by their nature are aggressive. Also, Members of this Honourable House, I am sure have heard of, or are aware of sections of this Island where dogs are kept by people who are alleged to be drug dealers. These dogs are kept for the sole purpose because of the fact that they are so very aggressive, they will warn of the approach of someone coming. Plus, even if those persons are police officers, the fierceness in these dogs, particularly if they are trained to attack, indeed endangers law enforcement.

The section I referred to a while ago also provides for the setting of a date by the Governor in Council, after which, the possession of dogs of this breed are illegal unless the dogs are registered in accordance with regulations as set down by the Governor in Council. The draft regulations provide among other things that for the purpose of section 37(e) of the Law, the following types of dogs are prohibited dogs:

- a) Malanoid
- b) Mastiff
- c) Dogo Argentino
- d) Chinese Sharpi

- e) Pit Bull Teria
- f) Rottweiler
- g) Japanese Tosa
- h) Phila Brazilerio
- i) Japanese Akita
- j) Any dog which is a cross breed of any of the types of dogs specified in sub paragraph (A) to (I).

Clause 7 deals with the sale of unclaimed impounded animal. This section addresses the administrative problems encountered in disposing of unclaimed impounded animals. Under the existing Animals Law, particularly livestock, it is often kept in the pound for extended periods. Since after, the impound period of seven days is passed, they must await the next publication of the Gazette for an auction notice to be published. In practice this usually means that the animal must be kept for at least three to four weeks before being offered for auction. Of course, during this time the animal has to be fed and cared and it is an expense on the public's purse.

During this time the animal must be kept in a way that would maintain its health so that there would not be a case against the Government, et cetera for its handling. It is not uncommon for animals when impounded to incur a larger expense than can be recouped at an auction. The amendment will reduce the mandatory time for keeping impounded animals to four days and will allow for notice of auction to be published in a local daily newspaper.

Clause 8 and 16 is about Animal Welfare. This section of the amendment allows for the establishment of the Animal Welfare Advisory Committee, made up of persons knowledgeable in the field of animal care and welfare. The committee will play a key role in matters relating to the care of animals and will strongly identify and deal with the issue of animal cruelty.

Mr. Speaker, far too many animals in the Cayman Islands are being neglected and left unattended for inordinate periods of time resulting in suffering to the animals. The Animal Welfare Advisory Committee will assume a role that will protect animals from such treatment and assist with bringing serious offenders to justice, while constantly providing opportunities for the education of the public in animal care and welfare.

Clause 9 repeals and replaces section 58 of the principal law and presents a more appropriate and modern definition of cruelty to animals, bringing it in line with today's attitudes towards animals. Significantly, it recognises that cruelty can be perpetuated, both by the commission of an act and equally by the omission of a basic need.

Clause 10 amends section 65, which provides the penalties for certain offences. It provides that the owner of any animal who has been found guilty of cruelty to the animal may be deprived of the ownership of the animal, and may be disqualified from hav-

ing custody of any animal for such period as a court determines by order.

Clause 11 repeals and replaces section 72. It provides for the appointment of animal welfare officers who will replace game wardens by the Governor. This is an essential aspect of the amendment.

Clause 12 repeals and replaces section 73 and sets out the powers and duties of the animal control officer. This gazetted officer will have the responsibility of:

- (a) investigating, collecting evidence and reporting on cases of cruelty to animals;
- (b) educating the public of proper care and welfare of animals and of animal control issues;
- (c) capturing and detaining of any stray or vicious animals.
- (d) protecting some game animals, ensuring the preservation of protected animals and supervising the closed seasons;
- (e) when he finds a person is in contravention of this Law, notifying such person in writing of the possibility of prosecution;
- (f) testifying in court in any proceedings under this Law.

The enforcement powers conferred upon this officer will go a long way towards improving and changing the behaviours and attitudes of persons towards animals in the Cayman Islands.

Clause 13 repeals paragraph (j) and (l) of section 74 of the principal Law while

Clause 14 repeals the power of search given to a game warden whose duties will be assumed by the animal welfare officer.

Clause 16 amends section 81, subsection (2) by increasing the general penalty under the Law from \$250 to \$500. Mr. Speaker, I must say that I found this Law well on its way to completion, which had been handled by the former Minister for Agriculture, and except for the inclusions of a few amendments, the Law was in existence to be brought to the Legislative Assembly, and I now have the duty of so doing. Mr. Speaker, I believe this proposed Law and the amendments will make a difference to the animals Law to cover areas that heretofore have not been addressed. In particular, it will address what is a growing concern in the country with regards to dogs, straying dogs, vicious dogs and those that create damage. Therefore, Mr. Speaker, I recommend this Bill to all Honourable Members of the House. Thank you.

The Speaker: Does any other Member wish to speak? The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you, Mr. Speaker.

I certainly am happy to see this Bill before us today, and perhaps the most important aspect of the Bill in my view is the fact that it seeks to implement stronger measures to protect members of the public from dangerous dogs. That is not to discount the facts

that it also has full intentions of addressing the control and welfare of animals in the Islands. I think the Minister has outlined well the various amendments being sought in the Bill and they have been explained. So, the fact is, I perhaps, do not need to go over and repeat but as it has come before the House, there are a few areas I would hope that the Minister would pay some attention to, as I speak. I do not really mean that I hope he will, thinking that he will not. I just am hopeful that we are able to do something about it before the vote is taken. Many times you can go over these things and something escapes you, and perhaps it is very possible that during the drafting stages what is intended is not how it is ended, so to speak.

Mr. Speaker, first of all let me draw attention to Members and perhaps legal opinion will have to be sought here, I am not sure, or maybe there is clarity and I cannot see it. Throughout the Bill we speak to licences and tags. There is a specific section in the Bill, which speaks to regulations. Page 10 of the Bill says: **“The Governor may make regulations prescribing the forms of licence required under this Part, the fees for such licences and a form of identification tag to be issued to persons who have taken out a dog licence”**.

I noticed the Minister, when introducing the Bill spoke to the fact that there would be a two-tiered system of licensing. Those animals that can still breed would cost more to license than those who have been incapacitated, so to speak. If we look in the Miscellaneous Provisions, Fees and Duties Temporary Law 1997, section 21 of that Law states that the licensing fee for dogs is abolished. Now, I was not made aware of this until not so long ago by my erstwhile colleague, the lady Member from North Side who is always taking the time out to make sure that the Ts are crossed and the Is are dotted. I am not sure there is a piece of legislation in place and I understand law to be primary legislation and regulations to be secondary. I do not know whether fees can simply be introduced without that being addressed. I cannot pass an opinion because I do know, but there seems to be a question mark in my mind. The fact is, we have a law in place, which says that licensing fees for a dog are abolished. So, someone needs to look at that.

While I am looking at that I also, just for information sake would like to know in the drafting, under section 28, page 10 of the Bill it speaks to **“. . . the Governor may make regulations. . .”**. Under section 29(a) on page 11, it also says: **“. . . the Governor may make regulations. . .”** but then we go over to page 15 and we look at 37(e) subsection 5 it says: **“. . . the Governor in Council. . .”** and I do not know whether that is intended to make a differentiation or whether it is simply saying the Governor (meaning the Governor in Council) and another time saying the Governor in Council. I am not so sure—I just wonder about that.

Now, Mr. Speaker, I also want to raise attention to part 3 of the Bill, which speaks to the fact that

part 5 of the principal Law is repealed and the following is substituted; therefore, if we go into the original Law under part 5 which is the licensing of animals, section 24 says in the original Law, **“Every person who keeps a dog of whatever description above the age of six months shall take out an animal licence in respect thereof which shall remain in force from the time it is taken out until the last day of the month of January following”**. When we repeal that section and it is being replaced by the following section 24 licensing of dogs, the new section reads, **“Subject to this section, a person shall not keep a dog unless-**

- a) **that person is sixteen years of age or older;** [which is as the Minister described, the reasoning behind that. However, it says Subject to this section a person shall not keep a dog unless]
- b) **he holds a dog licence for the dog”**.

So, the question mark in my mind—in the original Law it speaks to the fact that within the first 6 months of the life of the animal a license has to be acquired. As it reads now in what is proposed in the Bill it says you cannot keep the dog unless you have a licence. It has no timeframe; it does not speak to the fact that when a dog is just born it is a puppy and it takes a while for the weaning process and know which one is which to be able to say ‘well that is spots or that is . . . whatever’.

So, I just wondered if it is not more in line if some specific time period is given because the converse to that is, while they say a person shall not keep a dog unless he holds a dog licence, one could get into many arguments deciding on what is ‘*keeping the dog*’. One could be facetious and if a query is made, one could say: ‘*well I have had him for a year but I am just keeping him for somebody*’. I am not saying that is the norm but I am just saying that there had to be a reason in the original Law for that timeframe to be there.

So, I do not see any reason why—although they say that you must have this licence, thinking of the reality of certain circumstances, if you are importing a dog or you are purchasing a dog it is a different matter and the dog is past the stage where . . . There are people who will have their own dogs; who will breed, but what do you tell them when they have to have a licence. That is where the question is in my mind. *(Pause)*

It has just been brought to my attention, Mr. Speaker, that under the Memorandum of Objects and Reasons it says that **“clause 3 of the Bill repeals and replaces part 5”** which is what I have just been addressing **“of the principal Law and deals with the licensing of dogs. Only persons over 16 years of age may keep a dog and all dogs over the age of 4 months must be licensed”**. So, if we compare what the Memorandum of Objects and Reasons states perhaps it just means that it has to be added in to the

proposed Law. I did not notice that before. I was only querying the fact that one spoke to a time period and the other one did not. Perhaps that might be easy to fix.

Under section 25(1) it says, **“The C.A.V.O. shall, at such place as he shall authorise, issue dog licences and identification tags”** . . . and I do believe the Minister spoke to these regulations which will deal with fees. I was trying to listen to all that the Minister was saying but I cannot remember whether the Minister physically addressed these identification tags. I do not know whether the prescribed fee includes the cost of the tag or whether we have two separate charges. So, perhaps we might simply get that addressed. I just wanted to know that.

Mr. Speaker, under part 4 of the Bill it says, **“The principal law is amended by inserting the following new part after part 5. That new part being part 5(a) Licensed Operations”**. 28(a) sub section (i) reads, **“A person shall not,**

- (a) keep animals belonging to another person for which a charge is made;**
- (b) breed animals;**
- (c) sell an animal or act as broker in relation to the sale or transfer of animals; or**
- (d) train or keep animals for guard duties other than the guarding of his own premises; unless he holds an operating license”**.

Mr. Speaker, the key here is the very last part of the sentence where it says, **“Unless he holds an operating license”**. Now, let us take one step back to the new part 5. It says, **“The principal law is amended by inserting the following new part after part 5”**. Part 5, which I just spoke to, relates to the licensing of dogs and throughout the whole section we speak to dogs. Even in the old part 5 that is being replaced they speak to dog or dogs, but when we go to 5(a) we suddenly speak about animals. We do not say ‘dogs’ we say ‘animals’, which means we have to look at the very beginning of the Bill where we see the definitions. In the new Bill, section 2(a) where it says, **“The Animal Law (1999 Revision) in this law referred to as the principal law is amended in section 2, “(a) by repealing the definition of ‘animal’ and substituting the following:- ‘Animal’ includes live mammals, reptiles (other than marine turtles) amphibians, birds, fish, invertebrates and insects”**”.

So, Mr. Speaker, if we take from the definition the meaning of the word ‘animal’ and we apply it to where it is used in this section 5(a), what we will see is that “a person shall not keep any animal belonging to another person; shall not breed any animal unless he holds an operating license . . .” I do not believe that was the intent of the legislation; that is not how I know it to be. I think, this was specifically applicable to certain types of dogs.

The Speaker: Honourable Members, we have reached the hour of interruption. I was not sure if you were going to wind up any time soon. Could I ask for a motion for the adjournment please?

ADJOURNMENT

Hon. W. McKeever Bush: Mr. Speaker, I move the adjournment of this Honourable House until Thursday 7 March 2002 at 10.00 am.

The Speaker: The question is that this House do now adjourn until Thursday, 7 March at 10 am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 4.30 pm the House stood adjourned until Thursday, 7 March 2002, at 10.00 am.

OFFICIAL HANSARD REPORT
THURSDAY
7 MARCH 2002
10.31 AM
Tenth Sitting

The Speaker: I will invite the Honourable Minister responsible for Community Services, Youth and Women's Affairs to grace us with Prayers.

PRAYERS

Dr. the Hon. Frank S. McField: Let us pray.

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

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

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

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

The Speaker: Please be seated.

Proceedings resumed at 10.34 am

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

Apologies

The Speaker: I have received apologies for the late attendance for the Honourable Third Official Member

and the Second Elected Member for the district of West Bay.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**The Development and Planning (Amendment)
(Height of Buildings) Regulations 2002 (Revised)**

The Speaker: The Honourable Minister responsible for Planning.

Hon. Linford A. Pierson: Thank you Madam Speaker.

I wish to lay on the Table of this Honourable House The Development and Planning (Amendment) (Height of Buildings) Regulations 2002 (Revised) which replaces similar regulations laid on the Table of the House on Thursday, 28 February 2002.

The Speaker: So ordered. Would you wish to speak thereto?

Hon. Linford A. Pierson: Madam Speaker, I will speak to these Regulations when I move the Government Motion 1/02.

**The Petroleum Fuel Storage and Handling on the
Cayman Islands Government Agency Review -
July 2002**

The Speaker: The Honourable Minister responsible for Planning.

Hon. Linford A. Pierson: Madam Speaker, I wish to lay on the Table of this Honourable House The Petroleum Fuel Storage and Handling on the Cayman Islands Government Agency Review - July 2002.

The Speaker: So ordered. Would the Honourable Minister wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Madam Speaker.

In 1994 the Cayman Islands Government conducted an insurance audit which identified a number of areas of possible contingent liability. The propane operations and the petroleum refuelling terminals were highlighted as an issue due to their proximity to residential areas and the main school district. As a result of and arising from this audit, the Portfolio of Finance undertook to commission a review of the Islands' petroleum storage and handling operations

and the related administrative and regulatory regimes. Partial funding for this project was provided by the Commonwealth Secretariat, and the successful bidder was Four Elements, now ERM Business Risk Solutions, a team based out of their Columbus, Ohio, USA office.

The then Ministry of Agriculture, Communications, Environment and Natural Resources was assigned to provide local project management for the exercise. The Ministry executed the contract with the consultants and provided the necessary direction, liaisons, briefings and our arrangement between the industry, the various Government agencies and the ERM project team. The qualitative review got under way in August 1999.

The project team visited the Cayman Islands on three separate occasions during the course of the project and met with officials of the Ministry. They also met with a wide cross-section of key Government agencies, such as Fire, Environmental Health, Planning, Civil Aviation, Port Authority, Public Works and the Water Authority. Inspections and meetings were held with the main bulk fuel installations and their management teams which included Esso, Texaco, Caribbean Utilities, Home Gas, Cayman Brac Power and Light and Pure Air.

Inspections included visits to all three Islands. Two draft reports were produced and submitted for comment, namely the Technical Appraisal and Government Agency Review. The relevant sections of the draft reports were submitted to the various agencies and industry partners for their review and comment. The Ministry provided all incoming feedback to the consultants.

Government also agreed to set up a broad-based, multi-disciplinary Government committee, The Petroleum Storage and Handling Committee (PSHC), to review and consider the consultants reports, chaired by the Ministry. Further meetings and briefings were held with industry individual government agencies, as well as with the PSHC. The consultants discussed the feedback with the industry as well as the Government and amended the draft reports as they saw necessary.

Madam Speaker, I should like to point out that the consultants did not necessarily agree with all the comments, and any points of contention were aired at the follow-up meetings. The consultants, however, ultimately made the decisions on what went into the final reports, as would be expected.

The basic findings of the study were that while private-sector entities all showed a positive attitude and commitment to improving standards, the consultants discovered a wide range in the level of operation and performance from exceptional to unsatisfactory. The statutory authority for enforcement of broad standards associated with safety and environmental management systems, does not exist within the current legislative framework. No single agency, or combina-

tion of agencies, currently has the skills and expertise to enforce such a mandate.

In May 2001 the Executive Council agreed with the advice of the Petroleum Handling and Storage Committee and accepted the reports from ERM Business Risks Solutions and that the following actions be taken:

1. Recruitment of a Chief Petroleum Inspector to allow for an overall co-ordination of government oversight role in the inspection of facilities and installations. To improve levels of health and safety at the various bulk fuel operations, both private and public.

2. Amend the Petroleum Handling and Storage Law. This is expected to establish a general duty for operators to handle hazardous materials in a safe and environmentally responsible manner and provide for a permitting board to regulate operations through the issuance of annual operating permits. The fees payable for the permits will be structured to cover expenses relating to the office of the Chief Petroleum Inspector and its related expenses.

3. Conduct a quantitative risk assessment QRA on the liquefied petroleum gas LPG plant and the petroleum marine offloading operations and terminal. This action is expected to help address the land use and planning issues regarding the location of hazardous industrious sites and provide policy and decision makers with crucial and detailed information on the risks associated with these installations.

As an update, Madam Speaker, I can advise this Honourable House that -

1. The post of Chief Petroleum Inspector has been established. A job evaluation has been completed and a job description prepared and agreed. Interviews of short listed candidates were ready to be placed last year; however, budget restraint measures did not allow recruitment to take place. Approximately 4 months of funding has been provided in this year's budget.

2. Drafting instructions have been submitted to the Legislative Drafting Department and it is hoped that the amendments can be brought to the Legislative Assembly in the near future.

3. The quantitative risk assessment is expected to be completed this year and funds have been provided.

Madam Speaker, this matter is a high priority project for my Ministry and for Government, as a whole, as it is clearly one of national interest. Ultimately, Government must decide whether or not these installations must be moved to an alternative site, and if so, exactly where. There are many factors to consider such as associated costs, timing, transportation, offloading and piping, zoning and land use requirements and the numerous other logistics issues which such a major and complicated relocation exercise would bring.

We cannot, however, compromise our number-one concern which is safety, and if it is determined that these installations can remain in their pre-

sent locations, all facilities must be brought up to the highest and most stringent standards for health and human safety and the protection of our environment.

It is my intention to follow this matter through and to give it the very top priority within my Ministry. I thank you.

The Speaker: Thank you, Honourable Minister.

QUESTIONS TO HONOURABLE MINISTERS AND OFFICIAL MEMBERS

The Speaker: The Second Elected Member for the district of Cayman Brac and Little Cayman.

Question No. 25

Deferred Wednesday, 6 March 2002

No.25: Mr. Lyndon L. Martin asked the Honourable Minister responsible for the Ministry of Community Services, Youth and Women's Affairs; (a) What were the original criteria used to determine eligibility for the seamen's ex-gratia grant; (b) Why and how were recipients of the grant determined to no longer qualify for the grant in October of 2001; and (c) What are the new criteria for the seamen's exgratia payment?

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: The original criteria used to determine eligibility for the seamen ex-gratia grant, approved on the 5th September 2000 were: -

- The applicant (Seaman) must be Caymanian.
- ◆ The applicant (Seaman) must be retired from Sea.
 - ◆ The applicant (or surviving spouse) must be 60 years of age or older. If the seaman died at sea, the surviving spouse need not be age sixty (60) or over.
 - ◆ The applicant or surviving spouse **MUST** not be receiving the ex-servicemen's benefit.

(a) As Members are aware, when the original criteria were set up in September 2000, it was not known exactly how many seamen or their surviving spouses would qualify for the grant.

By the end of 2000, the Ministry responsible for disbursing this benefit had received over 900 applications. The Member will also recall that the Former Minister informed the Legislative Assembly, in an answer to a Parliamentary Question in March 2001, that the criteria were revised in March 2001 using advice given by the Auditor General's Office and the Ministry's staff. Between March 2001 and September 2001, all applications were reviewed using these criteria. Early in October 2001, seamen or their surviving spouses were informed, as in the case when they were informed in September 2000, that due to the local economic downturn, Government would be re-assessing their benefits based on need. The ex-gratia

categories of seamen were taken off in October and November 2001:

- ◆ Seamen and ex-servicemen and/or their surviving spouses who are living overseas.
- ◆ Seamen and/or their surviving spouses who are gainfully employed, or those who own a business; and
- ◆ Seamen and/or their surviving spouses, who are receiving a benefit, pension gratuity or other form of subsidy or payment.

The Member is also aware that we have recently met with Members of the Legislative Assembly and have agreed to review all recipients of the seamen ex-gratia benefits using the new criteria. They will be used to assess new applicants as well. Additionally, it was noted that there may be some recipients who had been or would be terminated using the criteria who were not able to meet their household expenses. Therefore, Government agreed that we should be assisting these individuals and that all recipients who are receiving less than CI\$1,500 (including any Government assistance) as household income per month would continue to receive the benefit. Therefore, the benefit could be granted at invariable amounts, with a maximum of \$400 monthly and a total income of \$1,500.

(c) The new criteria for the Seamen Ex-gratia benefits therefore are:

- ◆ The applicant (Seaman) must be Caymanian.
- ◆ The applicant (Seaman) must be retired from Sea.
- ◆ The applicant (Seamen) must have gone to sea for a period of not less than three years. If the applicant is not a born Caymanian he should have had Caymanian Status for at least three years of his/her seagoing career.
- ◆ The applicant (or surviving spouse) must be 60 years of age or older. The only exceptions are:
 - a. The applicant (Seaman) is unable to work due to medical reasons. This must be proven by a medical certificate from a recognised medical practitioner as registered by the Cayman Islands Health Practitioner's Board.
 - b. The applicant (Seaman) died at sea while on duty and the surviving spouse is unable to meet the needs of her and any surviving dependants.
 - c. Any benefit that can contribute to his/her income has been listed and is deemed to be insufficient to meet the needs in (b) above. Both (b) and (c) above shall be determined by a standard means test.
- ◆ He/she must not be receiving any income, benefit, gratuity or other form of subsidy or payment that totals more than CI\$1,500 per month, inclusive of this grant.
- ◆ The applicant or surviving spouse must not own or operate a business.

The Speaker: Are there any supplementaries? The Second Elected Member for the district of Cayman Brac and Little Cayman.

Supplementaries

Mr. Lyndon L. Martin: Thank you, Madam Speaker. In the answer provided to (b) the Minister stated and I read, **“Early in October of 2001, seamen or their surviving spouses were informed, as in the case when they were informed in September of 2000, that due to the economic downturn, the Government would be reassessing their benefits based on need”**. My question is: In 2000 they were informed via written correspondence from the Ministry to the individual recipients that they would be receiving a grant. Can the Minister confirm that such communication was also given in October of 2001, to indicate that the Government would no longer be continuing a grant to these individuals?

The Speaker: Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: My understanding is that persons had been informed in 2000 that they would receive grant payments. Once they were removed from the list of recipients they were not informed, and the Ministry is still in the process of getting this information to those persons who were removed as recipients of this benefit, in writing.

The Speaker: The Member for the district of North Side.

Ms. Edna M. Moyle: Madam Speaker, before I ask my question, if you will allow me, I would ask the Honourable Minister if he could check with the Permanent Secretary and the Senior Assistant Secretary to see if when I was Minister I did not give instructions for the seamen to be informed in writing. My question to the Honourable Minister, he is stating new criteria . . .

The Speaker: Honourable Member, do you wish for him to respond to that before moving on to a second question?

Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, the former Minister, the Lady Member for North Side did, in fact, give instructions that persons should be informed. However, I have no evidence that they were and I was only able to report to the House the fact that the recipients, once they were removed from the list were not informed.

The Speaker: Member for North Side, please continue.

Ms. Edna M. Moyle: Thank you, Madam Speaker. I thank the Honourable Minister for that clarification.

My question to the Honourable Minister is with regards to the new criteria. If you would allow me, I would read from the criteria that was left there, **“Eligibility criteria for seamen ex-gratia benefits.”** It says the only exceptions to the above where you must be -

“Caymanian: The seaman would have to have been Caymanian or to have had Caymanian Status at the time of qualifying service”.

“Qualifying service: Having been to sea for a period of not less than three years...”

“Seamen: A professional seafarer...”
“Surviving spouse of seaman”.

“Died at sea: To die at sea during active duty on a ship/ boat”. That was to clarify, when I was requested to consider someone who drowned out fishing to have died on active duty.

“The only exceptions to the above are:

- a) **The applicant (Seaman) is disabled and unable to work. This must be proven by a medical certificate...**
- b) **The applicant (Seaman) died at sea while on duty.**
- c) **The surviving spouse is unable to meet the needs of her and any surviving dependants.**
- d) **Any benefit that contributes to his/her income has been listed and is deemed to be insufficient to meet the needs in (c) above. Both (c) and (d) above shall be determined by a standard means test.**

The Applicant (Seaman) or surviving spouse must not be receiving any of the following:

- a) **Ex-gratia Payment or pension from the Cayman Islands Government.”**

Even though I found persons using the first name in one case to get one benefit and the second name to get the other were receiving both.

“Ex-servicemen benefit from the Cayman Islands Government.

- b) **Seaman or Veterans benefit from any other country.**

c) **Social security...”** And if you wish, instead of me going through this list, I will lay it on the Table of this Honourable House so that the Honourable Minister, if he cares to look at it, can. I would ask that he would clarify that some of these new criteria were at the Ministry when this new criteria was taken on.

The Speaker: So ordered. Honourable Minister responsible for Community Services.

Member for North Side, you can proceed once the Serjeant comes in to lay it on the Table.

Dr. the Hon. Frank S. McField: Madam Speaker, I would just like to confirm that Government is a continuous process and that part of the United Democratic Party policy is not to disrupt positive policies that were in place. Obviously, the former Minister began to

realign the criteria with what the United Democratic Party feels is realistic in terms of basing needs in relationship to resources. Therefore, we have only adjusted the criteria that has been there in order to give the possibility for support for persons who have a household income of less than \$1500 per month.

We feel that this was a significant change in that we were not going to just simply say, if you are receiving \$800 from Government in benefits that you could not qualify; that if you were working you could not qualify. Those were the criteria that the past Minister had in place and that denied a significant number of persons who need it. We were in the process of reassessing these persons to make sure that their need (which means that they are making less than \$1500 per month) is taken into account.

The Speaker: The Member for the district of North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker.

I thank the Honourable Minister for his very clear reply. However, I wonder if the Honourable Minister could say whether the reassessments that were previously done were based on the Social Services Department saying that once a person had \$800 (receiving \$800 per month) that they did their assessment based on an \$800-a-month income.

The Speaker: The Honourable Minister responsible for Social Services.

Dr. the Hon. Frank S. McField: Madam Speaker, I am not in the position to confirm the question because I have never been instructed by the Social Services Department, in my four months, that these should be the standards that we use.

I believe that the Ministry in setting policy decides whether or not it is \$800 or \$1500. The United Democratic Party decided that \$1500 per month would be a reasonable amount of money for persons to exist. If they were making a total of household income of less than that, the Government subsidy should go to them. If they were making \$1300 they could apply and still get \$200. Those types of considerations we made, not the Social Services Department.

The Speaker: Second Elected Member for the district of Cayman Brac and Little Cayman.

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

Could the Minister provide the House with how many persons are now receiving the seamen's benefit?

The Speaker: Honourable Minister responsible for Social Service.

Dr. the Hon. Frank S. McField: Madam Speaker, presently there are 453 recipients of the seamen ex-gratia benefits.

The Speaker: Second Elected Member for Cayman Brac and Little Cayman.

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

Could the Honourable Minister provide the House with the total cost to the Cayman Islands' Government for the provision of the seamen ex-gratia benefit, for the year 2002.

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, the total cost for 2002 is to be \$2,174, 400, and this would be for the 453 seamen budgeted for this year.

The Speaker: The Member for Cayman Brac and Little Cayman, is there a follow up?

Mr. Lyndon L. Martin: Yes, Madam Speaker.

The Speaker: Please continue.

Mr. Lyndon L. Martin: Could the Honourable Minister indicate if the figure provided in the last question would alter as a result of the new criteria and if there is any estimate to that effect?

The Speaker: Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, we are not able to give an answer with regards to how the amounts of money will be impacted by the new criteria. However, we know that we had a total of 188 seamen or their surviving spouses taken off from 2001 to date, and I will give a breakdown.

Two persons were not Caymanian at the time of sailing. Thirteen were Caymanians, living overseas. Seventeen government pensioners were receiving over \$800. If they were receiving say, \$900 or \$1000 or \$1100 they would then be eligible to receive now the \$400.

So in this case we would, first of all, do a re-assessment in order to be able to ascertain exactly—we have announced, that persons should now reapply (those 188 people who were taken off) and once they begin the process, (many have already started to re-apply) we will do the necessary assessment. At that particular time we will come back to the House, perhaps the supplementary funds to deal with this particular requirement.

The Speaker: The Elected Member for the district of East End.

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

The Minister in his substantive answer said that Government agreed that we should be assisting these individuals. All recipients who are receiving less than \$1500, including government assistance as household income per month, would continue to receive the benefit. My question is, what criteria was used to determine that \$1500 is the minimum income that one can live on in this country?

The Speaker: Honourable Minister responsible for Community Service.

Dr. the Hon. Frank S. McField: Madam Speaker, this is not an objective scientific evaluation. This was a response to what our common sense told us. Persons in our community need to exist at a particular standard of living and if the Member for East End queries that then he might tell me what amount he might think would be the appropriate amount.

Suspension of Standing Order 23 (7) and (8)

The Speaker: Before I call on the Member for East End, can I call on the Honourable Leader of Government Business to move for the suspension of Standing Order 23(7) and (8), to allow Question Time to continue.

Hon. W. McKeeva Bush: Madam Speaker, I move for the suspension of the relevant Standing Order to take questions beyond 11 am.

The Speaker: The question is that Standing Order 23(7) and (8) be suspended to allow question time beyond the hour of 11 am.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended.

The Speaker: The Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. In reply to the Minister's question to me, I do not know what that is. May I just ask the Minister if it is the Government's position that residents of the Cayman Islands should not be making below \$1500 per month?

The Speaker: The Honourable Minister responsible for Community Services. I will allow one more supplementary afterwards.

Dr. the Hon. Frank S. McField: Madam Speaker, I am sure that the Committee that is looking into the minimum wage will at one point be able to advise this

Honourable House as to what should be the minimum amount that a working person should be able to earn for their subsistence.

The United Democratic Party felt that if the original intention of Government was to grant ex-seamen and their surviving spouses' assistance not based on need but based upon entitlement. If the past Minister, the Lady Member for North Side's opinion was that should not be the case but that people should be subjected to a means test based upon criteria that she brought to the Executive Council.

The United Democratic Party felt that we could do a bit better than that by allowing need to be based in a limited sense that we felt would, in certain cases, create hardship for persons. We raised the amount that the person could have as a household income to \$1500. Remember that we started from them being able to have businesses; being able to make money—there was no limit. Somehow we feel that what we have done represents a compromise that is more acceptable and one that is still affordable.

The Speaker: The Elected Member for East End.

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

If I could just ask the Minister, When was it that the seamen or their spouses become eligible for the ex-gratia payment who were employed or owned a business. Because he just said that we are coming from those who owned businesses to those who do not; and is it my understanding then that in both instances when the \$800 was used and now that the \$1500 is being used that the cost of living indices of this country was not used as a criteria?

The Speaker: Elected Member for East End, before calling on the Honourable Minister I said that I would allow one more supplementary. I believe you have quite successfully combined two, could you indicate perhaps which of the two you wish to be answered?

Mr. V. Arden McLean: Madam Speaker, either one he chooses to answer will be fine with me.

The Speaker: Member for East End, would you please state which question you are soliciting a response thereto?

Mr. V. Arden McLean: Madam Speaker, I will withdraw it, if that is alright with you.

The Speaker: Elected Member, it is your question and it is your choice. I am giving you the discretion to ask an additional supplementary. If you wish to withdraw it that is entirely your discretion, but I am not asking you to. I am asking you to choose one of two because I did state one more supplementary. In fairness to all Members, when I say one supplementary, I stick to one.

Mr. V. Arden McLean: Madam Speaker, I will withdraw that question and someone else can take that last supplementary.

The Speaker: The Second Elected Member for Cayman Brac and Little Cayman.

Mr. Lyndon L. Martin: Thank you, Madam Speaker. I thank the Member for East End for allowing me to ask my supplementary.

Could the Minister indicate if there is a requirement under the new system for the recipients to be domiciled in the Cayman Islands?

The Speaker: Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, the requirement will continue to have persons domiciled in the Cayman Islands in order to receive these benefits so persons/applicants/recipients must be domiciled in the Cayman Islands. We had a total of 13 that were overseas recipients and those persons were cut under the criteria introduced by the former Minister. We have decided that would remain as was in place before we took responsibility.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

Amalgamation of Cayman Brac Primary Schools and Opening of Skills Development Centre

The Speaker: I have been given notice by the Minister for Education that he wishes to make a statement this morning.

Honourable Minister.

Hon. Roy Boddén: Madam Speaker, this statement concerns the proposal to amalgamate Cayman Brac Primary schools and the opening of a Skills Development Centre.

Following consultations with principals and senior teachers at a meeting with the Cayman Brac Education Board and PTA Executive Committees of Spot Bay, Creek and West End's Primary Schools in conjunction with the Cayman Brac High School, I have decided to withdraw the proposal to amalgamate the Cayman Brac Primary Schools and to turn the Spot Bay Primary School into a Skills Development Centre.

School rolls on Cayman Brac have been declining for some years. In January 2001 and January 2002 the rolls in the three primary schools were as follows: -

Schools	2001	2002
Spot Bay	47	43
Creek	76	79
West End	50	59

In a meeting to plan for the school year I met with the Permanent Secretary and the Chief Education Officer. At this meeting I was informed that with the anticipated transfer of year 6 to the Cayman Brac High School the enrolment based on birth figures and numbers at the pre-school for the Brac Primary Schools was anticipated to be;

Schools	No. Students
West End	61
Creek	77
Spot Bay	29

Spot Bay's anticipated enrolment gave us cause to discuss whether the school would be viable. I hasten to add that Little Cayman has an education service and not a school, meaning that we are not required to provide ancillary services and we are not required by law to admit any student to the Little Cayman facility as long as the option of a school place on Cayman Brac is available. Additionally, the matter of double or combined classes has been a cause for concern among Cayman Brac teachers and parents for many years. The anticipated numbers, and the numbers of registered students in the three primary schools combined, give the following class numbers:

Year	Amount of Students
Reception	22
Year 1	26
Year 2	15
Year 3	22
Year 4	22
Year 5	20
Year 6	35
Total Enrolment	165

With the amalgamation of the three schools into a small primary school on each of two sites, it would have been possible to create single classes of no more than twenty-two students and one teacher. Most importantly, there would have been no double classes. This amalgamation would have allowed time at the two sites from peripatetic staff such as the two special education teachers, the physical education teacher, the music teacher and the school counsellor. It was considered whether it would have been most advantageous to leave the Creek and the West End schools as is. However, it appeared that changes would have to be made at these two schools to achieve this amalgamation.

The proposal to amalgamate the three schools based on the economies of scale was first raised in 1994 as a recommendation in the five-year development plan for education 1995 to 1999. This proposal was not accepted in the plan as presented to the Legislative Assembly because, at that time, the rolls at each school were more than 50 children. This

is the number of students that the Ministry and Department consider viable for the type of primary schools we have. Less than this number will occasion some change to staffing and how students are taught. We believe that the best interest of the individual student must always be served and that this proposal was in the best educational interest.

I should, through this medium, wish to reassure this Honourable House and the people of the Cayman Islands, particularly, of Cayman Brac, of my commitment to serving the educational needs of all the children of these Islands, regardless of colour, creed or district of residence. Cayman Brac has lost a wonderful opportunity to be the pilot for a project in modern technical and vocational education—an opportunity which would not only gear Cayman Brac students for the transition from school to work but would also provide great scope for training, retraining and skills development.

I trust that this statement has served to outline the position of the Ministry of Education, Human Resources and Agriculture further that the logic and reason for the consideration of this issue has been sincere.

I have brought the matter into full transparency, taken input from educators, parents and the wider public, and considered all relevant matters in the proposal. I have decided not to pursue the proposal to amalgamate the primary schools on Cayman Brac and convert the Spot Bay School into a Skills Development Centre.

The Speaker: Thank you very much, Honourable Minister.

GOVERNMENT BUSINESS BILLS SECOND READINGS

The Animals (Amendment) Bill, 2002

(Continuation of the debate thereon)

The Speaker: The First Elected Member for the district of George Town continuing his debate.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker.

'At close of play' yesterday I started to speak to the area in the proposed Bill which addressed the licensed operations where the principle law is to be amended by inserting part 5(a) after the new part 5. The point I was making at that time, was that in the principle law, part 5 refers to dogs and in the new replacement part 5 it still speaks to the licensing of dogs. But throughout 5(a) reference is made to animals.

I had the opportunity to have discussions with the Minister this morning, and also, I think, the Chief Agriculture and Veterinary Officer was present, so I

think that matter is cleared up. Nonetheless, it is worth mentioning so it is absolutely clear to everyone that if the intent which I am pretty confident was one which was only to deal with, if not dogs alone but pets per say, how the wording is now might have been a very serious problem. I am certain that was not the intent. Part 5(a) refers to a person not being able to breed animals or sell and animals. That could limit many of our traditional habits. For instance when we speak of Christmas beef we speak of someone borrowing the bull from the Agriculture Department to breed some of their cows. The way this is worded could have caused one to have to acquire a licence to be able to do that. So I think that was the point but I am pretty confident that the point has been taken. I just had to continue it because I was in the middle of it yesterday afternoon.

I drew examples of two sections referring to the Governor and a third section to the Governor in Council. I do not know the significance of that and I just wanted to make sure that that is remembered when a look is taken at it.

In section 37(d) of the Bill refers to when a dog shall be regarded as being dangerously out of control. The exceptions referred to in that section says, “. . . **that it will do so, do not include references to any case in which the dog is being used for lawful purposes by a Constable or a Public Officer while carrying out his duties**”.

Again, to any case in which the dog is being used for lawful purposes by a Constable or Public Officer. I am not so sure when reference is made in the Bill to a Constable or a Public Officer, whether that would include hired security guards. Because as we are well aware in this day and age there are many premises that have contracts with various security companies and what is used is a security guard accompanied by a guard dog. For instance if an incident were to occur where a prowler was caught in the act and the dog was used to help to apprehend the prowler, would that security guard be considered a Constable or a Public Officer? I just want to find out because I am not sure whether that is included in the matter. I think we need to have a little look at that.

If we look on page 20 of the Bill and we look at section 58 subsection 1(f)(3), that is kind of in the middle of the page. It speaks to, “**The owner of an animal who leaves an animal on premises shall ensure that there is a person on the premises or a person who will visit the premises to maintain that animal and that the animal -**

- a) **has access to drinking water;**
- b) **has access to accommodation which is suitable as regards drainage, size, cleanliness and ventilation;**
- c) **is able to move freely; and**
- d) **has reasonable shelter against the sun and rain”.**

This is perhaps almost jovial but I think the point is necessary. If I were an animal and they did all this for me and they never made sure I had any food,

someone would be in trouble. So if we have a listing of all of the various items to ensure—all I am trying to say is, I think we had better include food in it, unless one of the words used in here would be interpreted to mean food. As I said it is a small point but I think if there is a listing in the proposed Bill, perhaps we could add that.

Finally, I do not know how we are going to get across this one because when we had examined the Bill this section 37(c) that is being proposed in the Bill, on page 14 was not included. This one is brand new to me.

I heard the Ministers arguments yesterday and I do not have a problem with the basic (if I may use the word), principles that he is applying when it comes to a dog defecating. Where I have a little bit of a problem is for instance in the middle of the George Town area you have someone walking a dog and the dog chooses to stop to do what he can only do for himself, I can understand quite readily that one would not want to have to encounter that situation. When the Minister spoke to it yesterday he referred to the kind of mess that it could cause on your shoes and I understand all of that. However, if we look at it from another view point, when we speak to a public place, how are we really going to—I mean people walk their dogs all over on public roads and subdivisions and quiet areas. My only question with that from a reality checkpoint is, Are we saying that wherever anyone has a dog he should travel with the necessary tools to pick up whatever, as was termed as the droppings? So it is a little bit funny but the fact of the matter is, it is legislation we are talking about and I want to raise the issue to ensure that when we talk of this kind of legislation we are not putting people in situations.

One might easily say the authorities might use their discretion in such instances, but I have seen discretion not being used where I thought it should have been used. I would wish that a look be taken to see if what the objective is in that section cannot be achieved without the law being crafted to be such far reaching in its scope. Perhaps I do not have the answer as to how to achieve what I think the objective is, but perhaps they can call on the drafting personnel to see if anything can be done. I foresee instances where people might find themselves in (for lack of a better term) very cute circumstances, if some authority wishes to act out what a law calls for, when it would probably be, in a lot of instances, undeserving.

So, before we pass the law perhaps we could have a look at that to see if there is another way to word it that it does not allow the possibility of the kinds of things that I am talking about. Certainly it would be the most desirable situation if the animals that we speak of (pets and the dogs) could understand everything that we say and you tell them to wait until they get home. But I do not think that we are in a position to be sure of that.

I have raised several other issues which I do not believe cannot be overcome. I think that between

the various personnel, the resource people who are available, it can easily be straightened out.

I am confident that the Bill will have safe passage and the Back Bench Opposition certainly supports the Bill in its concept, except for the few things that have been aired. The points that have been aired are points which we all recognised when we ran through it and we just amalgamated them together and we are airing them as had just been done.

I will close by voicing support on our behalf, but I would ask the Minister, before we go to the vote, if he could try to get those issues addressed, perhaps with Committee stage amendments with your permission. I am certain the Minister would not have brought it if it was not supported by the Government. I trust that the Government would also see the wisdom of some of the little changes that we have mentioned. And as those issues are addressed we can move on to get the Bill to where it becomes a Law. Thank you.

The Speaker: Thank you. Dose any other Member wish to speak? Last call . . . does any other Member wish to speak? If not we will take a 15-minute suspension at this time.

Proceedings suspended at 11.40 am

Proceedings resumed at 12.15 pm

The Speaker: Proceedings are resumed. I now invite the Honourable Minister responsible for Agriculture to make his concluding response.

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

I have taken note of the points made by the First Elected Member for George Town in regards to the Bill to amend the Animals Law (1999 Revision). I think that these matters which he has raised, including various sections of the amending Bill, bear merit and it is my intention in Committee stage to offer amendments to certain sections of the Bill.

I also welcome the stated support by the Opposition through the Member who spoke for the Bill generally. It is my belief that these amendments are necessary to rectify certain conditions which now exist in the society which were not covered in the Law when it was first passed. These amendments attempt to address these areas of concerns and needs.

Having stated what I have, I recommend the Bill and thank Members for their support.

The Speaker: The question is that a Bill shortly entitled, A Bill to Amend the Animals Law (1999 Revision) to Provide for the Licence of Dogs, the Regulation of Dangerous and Prohibited Dogs, the Establishment of an Animal Welfare Advisory Committee and the Appointment of Animal Welfare Officers and for Incidental and Connected Purposes, be given a Second Reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Animals (Amendment) Bill 2002 given a Second Reading.

The Speaker: The Honourable Deputy Leader.

Suspension of Standing Order 46(4)

Hon. Linford A. Pierson: Madam Speaker, I beg to move the suspension of Standing Order 46(4) to allow for the Second Reading on the Information and Communication Technology Authority Bill, 2002.

The Speaker: The question is that Standing Order 46(4) be duly suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46(4) suspended.

The Information and Communications Technology Authority Bill, 2002

The Speaker: The Honourable Minister responsible for Information Technology.

Hon. Linford A. Pierson: Madam Speaker, I beg to move the Second Reading on the Information and Communications Technology Authority Bill, 2002.

The Speaker: The Bill has now been duly moved. Does the mover wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Madam Speaker.

The process in the development and the formulation of this landmark piece of legislation did not come to fruition without some amount of controversy, and at times, threats of blackmail.

With your permission I would like to make brief references to some of the difficulties with which I had to contend, without taking any quotes from any particular documentation that may have floated through the mail or on the Website, et cetera.

Shortly after my announcement at the Chamber of Commerce luncheon mid last year of Government's intention to liberalise the telecommunication sector, I have been attacked by articles on *Caypolitics*, and by at least one letter sent to me through the mail. The article can be found in *Caypolitics*, dated 9th October 2001, and can be made available to Mem-

bers of the House through the Internet. In my opinion, and in the opinion of a legal advisor, it was potentially libellous. I was accused in that article of accepting kickbacks from competitors. Also, the article stated that Cable and Wireless had given me free telephone and high speed ADSL, among other nasty remarks from that questionable source. However, that did not deter me from getting the job done as I was elected to do.

I received a nasty letter in the mail, threatening to blackmail me and to divulge certain sensitive information that they had on a member of my family if I did not give up pursuing the liberalisation of Cable and Wireless. This too, did not deter me and will not.

I think it is safe to say that most of the Cayman Islands, if not all, regard me as a man of honour and a man of integrity. I have established this position, not through hard work or through any special effort but through my ordinary daily life. When I am called 'Honourable Minister', to me it is more than a title because I endeavour to live an honourable life of integrity.

I view myself as not an opportunistic politician but as a statesman, and I attempt in my daily life to live as such. I have demonstrated on a number of occasions during my political career that I will not sell myself short, or that I will not do things just for political gains if it is against my best conscience. I think 1992 was a classic example, when I refused to move across from my colleagues on the Executive Council, when I was told that if I had done so I may have topped the polls in the 1992 election. Yet, because of my integrity, I stayed there and went down with the ship.

Some people may say that was stupid, but to me it is keeping my integrity in tact. That is why when I give my right hand to anyone they do not have to ask me to sign a document. I am from the old school and I believe that a man's word is his bond. When I give someone my word I believe that it means a lot. My integrity means more to me than any amount of money that this House or the private sector could ever pay me.

I am convinced as other individuals are, including the consultants, that my Ministry has employed from the UK LECG that this Bill is a sound piece of legislation.

The Speaker: Honourable Minister, are you going on to a new area as opposed to your introductory remarks? If you are I should wish to make a brief comment before you enter a new topic.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

The Speaker: Thank you. I am grateful.

I should wish to draw to all Honourable Members attention, in particular that of the Press, section 18 (2)(a) of the Legislative Assembly (Immunities Powers and Privileges) Law (1999 Revised) which states:

“Whoever publishes any statement, whether in writing or otherwise, which falsely or scandalously defames the Assembly or any committee, or which reflects on the character of the Speaker or the chairman of the committee in the discharge of his duty of such;

(b) publishes any writing containing a gross, wilful or scandalous misrepresentation of the proceedings of the Assembly or a committee or of the speech of any Member in the proceedings of the Assembly or a committee;

(c) publishes any writing containing any false scandalous libel on any Member touching his conduct as a Member; or

(d) publishes any report or statement purporting to be a report of the proceedings of the Assembly in any case where such proceedings have been conducted after exclusion of the public by order of the Assembly,

is guilty of an offence and liable on conviction before the Grand Court to a fine of eight hundred dollars and to imprisonment for twelve months”.

I wish to once again draw Members' attention to that section that I have requested to be looked at for modernisation.

I would state, quite emphatically, that the Members of this House are all considered Honourable Members. I, as Speaker, without fear of contradiction will not hesitate to impose any sanction that is legal in this jurisdiction against any member of the press or public who contravenes the Laws of this country. Parliamentarians are put here in a very high position and endeavour at all material times to so conduct themselves.

Please continue Honourable Minister.

Hon. Linford A. Pierson: Thank you so very much, Madam Speaker, for that intervention.

I do not intend to say anymore on the articles in *Caypolitics* as it is still my intention, notwithstanding assurance received from a senior member of the firm connected with *Caypolitics*, that they would look into this matter. I have still not decided whether or not I will pursue this matter. As a result, it could be regarded as sub judice for me to continue to say anymore on it.

I have received the compliments from a number of the stakeholders involved to be regulated under the legislation, but if I had received the compliments of everyone it would certainly be reason for me to be concerned. So, I am not surprised at all that at least the largest of the stakeholders, Cable and Wireless—and I note that their officials are in the gallery—are not one hundred percent happy with this Bill, because it is a Bill that will regulate them and other similar bodies. They have suggested to me that the Bill is somewhat harsh in relation to them. Then again, I got communication from another stakeholder who said I was going too easy on Cable and Wireless. So you never win in a situation. The most you can do is pray to God that

you get the guidance to do what is right for these Islands and the people of these Islands and to be able to sleep at night knowing that you have done the very best job that you possibly could.

In this regard we did not—as I understand some of our neighbouring Islands have done—depend solely on our own local expertise because we realised that we were limited in that area. Thus, the reason we selected one of the very best, most experienced firms in the telecommunication business, LECG Limited telecommunications consultants out of the UK to assist us and they have been through the Bill, page by page, word by word.

I am not going to suggest here to Honourable Members that it is a perfect piece of legislation, but I am going to suggest that it is a very good piece of legislation. As can be seen, there is already one Committee stage amendment that has been circulated, that we intend to- I wish to make during the Committee stage of the Bill.

Indeed, I am looking for a second one, if it is appropriate, to make sure that it is as tight as possible. That second one has to do more with the regulation and control of the *ky* domain.

The term 'ICT' includes all the types of communications for use for social, business, entertainment and safety purposes, which are now routine features of our lives. Modern, efficient, innovative and inexpensive ICT networks and services are vital to the quality of life of people who live and work in the Cayman Islands, or who come here as visitors. What is more, they are fundamental to our economic success. Modern business relies critically on such networks and services to enable it to compete successfully with the best of other jurisdictions. If we fail to provide these networks and services the economic activities which rely on them can and will whither and may eventually leave these Islands. It is absolutely vital that we do not allow this to happen. Conversely, if we can develop a truly modern, efficient information communication technology sector the opportunities we have to attract new businesses will be immensely enhanced.

The evidence from around the world is that market liberalisation is fundamental to sustaining and developing the ICT sector. By liberalisation I mean an end to exclusive monopoly supply and the encouragement to competition in a range of services, quality of services, and above all in price. Nothing has been shown to be more effective in stimulating the sector than opening it up to multiple players.

Cayman will be following a well-trodden path, not embarking on untried risky techniques. It is not possible simply to abolish exclusivity and allow an immediate free-for-all. The transition has to be managed and the Bill not only enables competition but also provides the means whereby it can be brought about in an orderly and beneficial way.

Before moving on to discuss the key features of this important Bill, I would like to offer my sincere

thanks to the many individuals and organisations that have contributed greatly to its drafting. First and foremost, I would like to thank the members of the Legislation sub-committee of the E-business Advisory Board, who laboured for many hours over a twelve-month period, not only to produce the consultative draft that was laid on the Table of this Honourable House last year August, but also review, comment on and in many cases incorporate the constructive comments and observations we received from Cable and Wireless and other stakeholders. I must also express my gratitude to the various employers of the sub-committee members for allowing them to donate their time without charge.

In particular, I should mention Broadhurst DaCosta, Cable and Wireless Internet Financial Services, Maples and Calder, Truman Bodden and Company and Walkers. I am also indebted to the many individuals and organisations that have reviewed the Bill at various stages including all stakeholders in the sector. Mr. William Wigglesworth, the Regional Telecommunications Advisor appointed by the UK Foreign and Commonwealth Office, the Telecommunications Advisory Committee and Government's ICT consultant, LECG Limited.

Finally, my grateful thanks go to the various Government Departments that contributed their expertise with particular mention going to Legislative Drafting and the Members of my own Ministry, all of whom have been working under considerable pressure for many months.

Thank you all again, and if I have omitted anyone by mistake, please accept my humble apologies.

Part (1)-Objectives of the Bill I would like to look at the objectives of the Bill, and I now turn to a more detailed consideration of the provisions of the Bill. As can be seen from the Memorandum of Objects and Reasons, the objects of this Bill are as follows: -

(A) to replace the existing Telephone, Broadcasting and Radio Laws with legislation that provides for modern Information And Communications Technology (ICT) services and networks in the Cayman Islands;

(B) to establish an independent regulatory Authority for the supervision of all ICT services and ICT networks;

(C) to enable the introduction of competition for the provisions of ICT services and ICT networks; and

(D) to protect the interest of consumers by -

- I. specifying standards for the delivery of ICT services and ICT networks.
- II. specifying a complaints procedure, and
- III. introducing measures to ensure their privacy when using ICT services and ICT networks.

Part 1 is introductory and includes the short title of the Bill commencements and definitions.

Part (2)- Establishment, Capital and Administration covers the establishment, capital and administration of the new ICT Authority. Clause 3 enables the authority as a body corporate. Clause 4 specifies

that the Board of Directors shall consist of between three and five members with skills in one or more of finance and accounting, telecommunications, economics, law, information technology or related fields. To ensure the proper level of technical expertise, at least one of the Directors must be a person of recognised standing and experience in Telecommunications and one in Information Technology.

Clause 5 specifies that Directors should not represent any commercial or financial interest of which they may be connected, should be appointed for between three and five years and may be re-appointed and may be paid remuneration and allowances by the Authority. As the Managing Director will be an employee of the Authority the latter two provisions do not apply to him or her. Before he is appointed a director, a person is required to inform the Governor of any conflicts of interest and it is an offence if he fails to do so.

Clause 6 provides for the appointment of the Managing Director and specifies his duties and responsibilities. Clause 7 details the limited circumstances under which the Governor in Council may terminate the appointment of any director; and

Clause 8 lays down that the Board shall conduct its procedures in accordance with the first schedule to the Bill. Clause 9, powers and functions of the Authority are defined. These are to:

(a) Allocate the electromagnetic spectrum for facilities and specified services within the Cayman Islands or between the Cayman Islands and elsewhere.

(b) Determine methods for assigning the electromagnetic spectrum.

(c) Issue licences authorising the use of specified portions of the electromagnetic spectrum including those used on any ship, aircraft, vessel or other floating or airborne contrivance or spacecraft registered in the Cayman Islands.

(d) Institute procedures for ensuring the compliance by licensees with any obligations regarding the use of the electromagnetic spectrum imposed by or under the licence any provisions of this Law or any regulations made here under.

And more specifically,

(a) To promote competition in the provision of ICT services and ICT networks where it is reasonable or necessary to do so.

(b) To advise the Minister on ICT matters, including compliance with Government's international obligations, market liberalisation and competitive pricing.

(c) To investigate and resolve complaints from customers or consumers and service providers, concerning the provision of ICT services and ICT networks.

(d) To determine that categories of licence to be issued under this Law and the electronic transactions Law 2000.

(e) To licence and regulate ICT services and ICT networks as specified in this Law and the Electronics Transactions Law 2000.

(f) To collect all fees, including licence fees and any other charges levied under this Law of the Electronics Transactions Law 2000 or Regulations made there under.

(g) To resolve disputes concerning the interconnection or sharing of infrastructure between or among ICT service providers or ICT network providers.

(h) To promote and maintain an efficient economic and harmonised ICT infrastructure.

(i) To carry out the duties and the responsibilities of the administrative point of contact of the top level of the global Internet domain name system, as assigned from time to time to the Islands to act on any matter, refer to it by the Minister or the Managing Director; and

(k) To carry out such other functions as are conferred on the Authority by or under this Law or any other Law.

The Authority may also regulate the rate, prices, terms and conditions of any ICT service or ICT network that is required to be licensed where the Authority is of the opinion that it is in the interest of the public to do so.

Clause 10 specifies that the Authority may summon and examine witnesses called for and examine documents, administer oaths and require affidavits, if it is necessary to do so in order for it to perform its functions under the law. Clause 11 allows the Minister to give the Authority directions of a general policy nature and states that such directions should be published in the gazettes.

Clauses 12 to 21 are standard clauses detailing the procedures to be followed by the Authority with regards to accounts and statements. These and some other clauses concerning accounting issues reflect current cash accounting practices, but will most likely amend prior to the coming into force on the 1 July 2004, or earlier of the relevant provisions of the new Public Management and Finance Law 2001. I therefore shall not go into any details concerning these clauses. Clause 22 gives the Authority to employ staff as it considers necessary, specified pension requirements and permits civil servants to be seconded to the Authority.

Part (3) - Licensing of ICT Network and ICT Service Providers: Part 3 of the Bill deals with the licensing of ICT network and ICT service providers.

Clause 23 enables the Authority to license such ICT services and ICT networks as are specified by notice published in the Gazette. It further provides that the ICT services or ICT networks, licensed under this Law, are exempt from the licensing requirements of the Trade and Business Licensing Law, and thus removes the necessity for a company to obtain two different types of licences for the same business. It also enables the Governor in Council to establish a class or classes of licence that are exempt from the local Companies Control Law when they consider it to be in the best interest of the Cayman Islands, as the requisite would not otherwise be made.

A licence shall specify the operations that the licensee may undertake and conditions to which the licence is subject the breach of which constitutes an offence under the Law.

Clause 24 provides that the Governor in Council may provide regulations relating to classes of ICT service which may be provided under a licence. Such regulations may provide for;

(a) The content of such ICT service and the times when they can be provided.

(b) The minimum amount of time on such ICT service a licensee shall devote to material containing matter of minority, cultural or educational interest and the times during which such matter shall be provided.

(c) The times within which advertisements relating to particular goods or classes of goods may be advertised and

(d) The maximum amount of time in any hour, which may be used for advertisements and the maximum amount of time which can be used for that purpose.

Clause 25 provides that the shares of a licensee, which is a company, shall not be issued or transferred without the approval of the ICT Authority. This is to prevent effective control of a licence being changed without the knowledge of the Authority, thus circumventing the licensing checks and procedures.

Clause 26 sets out the procedure for the grant or renewal of a licence and specifies criteria that the Authority should take into account when making their decisions and these include;

(a) Whether the applicant possesses the technical qualifications necessary to fully perform the obligations attached to the licence for which the applicant is applying.

(b) Whether the applicant intends to perform the obligations attached to the licence for which the applicant is applying, in a period of time which, in the opinion of the Authority, is reasonable.

(c) Whether the applicant is a fit and proper person to be granted a licence.

(d) Whether the interest of subscribers, purchasers and other users of ICT services or ICT networks will be protected.

(e) Whether competition among providers of ICT services and ICT networks will be promoted.

(f) Whether research, development and introduction of new ICT services and ICT networks will be promoted.

(g) Whether foreign and domestic investors will be encouraged to invest in the ICT sector; and

(h) Whether the public interest and the security interest of the Islands will be safeguarded.

Clause 27 provides that a person shall not assign a licence or any rights under such licence without the prior written approval of the Authority. Again this is to avoid a circumvention of the licensing checks and procedures.

Clause 28 provides for the duration of licences. Clause 29 provides for the renewal of li-

cences. Clause 30 prescribes that each licence will be subject to a license fee payable to the Authority. Clause 31 sets out the procedures for the modification of a licence. Clause 32 sets out the conditions under which the Authority may suspend a licence and the procedures for doing so. Clause 33 sets out the conditions under which the Authority may revoke a licence and the procedures for doing so. Clause 34 provides for the keeping of a register of all applications for licences received by the Authority and all licences granted under the Law. This register will be available for public inspection and maybe available online. The aim is to provide a high degree of transparency.

Part (4)- Cease and Decease Orders deals with the cease and decease orders. Earlier clauses in this Bill give the Authority the power to suspend or revoke a licence. Such action is appropriate for major or repeated breaches of the conditions of a licence. Or, if a licensee blatantly breaks the Law. A much more likely occurrence will be, minor intentional or unintentional breaches of licences conditions. And the Authority requires a more credible sanction that it can apply in such circumstances.

Clause 35 therefore empowers the Authority to issue cease and desist orders; and Clause 36 provides that the Authority may apply to the court where a licensee;

(a) Has failed to comply with any term or condition of the licence, or

(b) Has failed to comply with a cease or desist order made under Clause 35; or

(c) Has contravened and provision of this Law or any regulations made here under.

Clause 37 sets out the powers of the court in relation to such an application.

Universal Service: Part 5 of the Bill deals with the Universal Service, Interconnection, Infrastructure Sharing and Numbering.

The concept behind the universal service provisions is that the Governor in Council may define a minimum level of ICT service that should be available to each of our citizens. As a condition of their licence, one or more service providers can be required to provide that minimum level of service. If the cost of providing the service is greater than the revenue it generates, the provider can be compensated from a fund set up for that purpose.

This universal service fund receives its income from contributions made by all providers of the type of service in question. The aim is to ensure that no service provider is unfairly penalised for having to provide uneconomic services specified by Government, but rather that the cost is equitably shared by all similar providers. Until the minimum level of required service has been defined and the Authority has had the opportunity to examine the true cost of provision of such services, it is not certain that a universal service fund will be required. To avoid work that might be unnecessary, the provisions contained in Clauses 38 to

43 will not come into force until the date specified by the Governor.

Clause 38 establishes the universal fund managed by the Authority. Clause 39 specifies the purpose of the fund. Clause 40 enables categories of universal service and categories of ICT service or ICT networks providers required to provide one or more such categories of universal service to be specified by regulations. Clause 41 enables the Authority to include the provision of one or more categories of universal service as a condition of licensing the services or networks provided by a specified category of ICT service or ICT network providers; and

Clause 42 enables the Authority to include the provision of one or more categories of universal service as a condition of licensing a specified ICT service or ICT network.

Clause 43 prescribes the procedures for obtaining contribution to the fund by ICT service providers and ICT network providers.

I will now move on to the subject of interconnection and infrastructure sharing.

The Speaker: Is this a convenient time for the luncheon break?

Hon. Linford A. Pierson: Yes, Madam Speaker.

The Speaker: Thank you. We will now break for lunch and we will be back at 2.30pm.

Proceedings suspended at 12.59 pm

Proceedings resumed at 2.52 pm

The Speaker: Please be seated. Proceedings are resumed.

I will invite the Honourable Leader to bring a Motion for the adjournment.

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, because of a briefing on a financial management initiative for all Members of the House and another meeting after that, we propose to adjourn this Honourable House until Friday, 8 March at 10 am.

The Speaker: Thank you. The question is that this House do now adjourn until Friday, 8 March 2002 at 10 am.

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

Ayes.

The Speaker: The Ayes have it.

At 2.53 pm the House stood adjourned until Friday, 8 March 2002, at 10 am.

OFFICIAL HANSARD REPORT
FRIDAY
8 MARCH 2002
10.31 AM
Eleventh Sitting

The Speaker: I call upon the Honourable First Official Member to say prayers.

GOVERNMENT BUSINESS

PRAYERS

Hon. James M. Ryan: Let us pray.

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

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

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

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

Proceedings resumed at 10.34am

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

Apologies

The Speaker: Please be seated. Proceedings are resumed.

I have received apologies for the late attendance of the Honourable Minister for Education. I have received no notice for any statements this morning.

BILLS

SECOND READING

**The Information and Communications Technology
Authority Bill, 2002**

(Continuation of debate thereon)

The Speaker: The Honourable Minister responsible for Information and Technology continuing his debate on the Bill.

Hon. Linford A. Pierson: Thank you. Yesterday, at the close of my debate on the Bill before us, I had reached the point of Interconnection and Infrastructure Sharing. I would like to now deal with the subject of Interconnection.

Interconnection

On the day that liberalisation of telecommunication commences, the incumbent telephone company will own all telecommunication infrastructures on the Islands and new providers will own none. It would clearly be both uneconomic and undesirable for each new provider to contract his own independent infrastructure. Moreover, a subscriber to one telephone service must be able to contact a subscriber to any other service. We require a facility whereby all network operators, including the incumbent (Cable and Wireless), must enable other operators to pass traffic over their own networks for a charge. This facility is called 'interconnection'. The ability to achieve interconnection at rates, terms and conditions that are fair and equitable, is key to the development of a competitive Information and Communications Technology (ICT) marketplace.

Clause 44 sets out the conditions for the provisions of interconnection between the public ICT networks and of ICT network providers.

Clause 45 prescribes that interconnection agreements shall be in writing; shall be lodged with the Authority and shall be available for public inspection. The clause enables the Minister to impose an interconnection rate if the parties cannot agree.

Clause 46 sets out the procedures for resolving disputes during negotiations for the provision of interconnection and,

Clause 47 sets out the criteria to be used when calculating the cost of interconnection.

Infrastructure Sharing

Infrastructure sharing means such things as the sharing of radio masks, ducts and other such physical assets which ICT networks require.

Clause 48 provides the clauses in this Law dealing with interconnection, shall apply equally to specified types of infrastructure sharing by licensees.

Numbering

Clause 49 prescribes the way in which the Authority shall establish and manage a national plan for the allocation of telephone numbers among licensees.

Service Standards and Data Protection

Clause 50 sets out the service standards with which licensees shall apply and comply, and enables the Authority to make rules and procedures for the handling of customer complaints.

Clause 51 specifies circumstances under which a licensee may refuse to provide, discontinue or interrupt the provisions of an ICT service or an ICT network to a subscriber.

Clause 52 enables the establishment and adoption of standards for the certification of ICT equipment and ICT technicians. Only equipment meeting such standards may be connected to ICT networks.

Licensees or Subscribers

Clause 53 specifies that it is an offence to intentionally intercept, alter, replicate, monitor or interrupt any messages transmitted over an ICT network by means of an ICT service. Exceptions are provided where the action is taken by order of the Governor or the Court. Madam Speaker, I should mention and in connection with this section I propose to bring a small amendment, as I will be seeking to amend clause 55, and 53 is connection with that clause also.

Clause 54 specifies that it is offence for a licensee to disclose any personal data of a subscriber and user. Limited exceptions are provided.

Clause 55 (creates some problems with myself and certain Members of the House and I am going to be proposing an Amendment to this clause). This clause enables the Governor to issue a warrant authorising the interception of a message transmitted by means of an ICT service.

I should quickly add here though, that this Authority is now given to the Governor under the Cayman Islands Constitution, so even if I amend this, the Governor will still have that authority under the Constitution. As we all know, the Constitution supersedes any other law passed or existing in this House. So, the

Governor still has that same right under his reserve powers to have a message intercepted if he feels that it is warranted. This particular Clause (55) reads and I would like to read this so that it is understood. It states: "**Subject to the provision of this section, the Governor may issue a warrant requiring the person to whom it is addressed to intercept, in the course of their transmission by means of an ICT service, such messages as are described in the warrant; and such a warrant may also require the person to whom it is addressed to disclose the intercepted material to such persons and in such manner as are described in the warrant**".

Sub-clause (2) reads: "**The Governor shall not issue a warrant under this section unless he considers that the information sought could not reasonably be acquired by other means and the warrant is necessary- (a) in the interests of the security of the Islands; (b) for the purpose of preventing or detecting an indictable offence; or (c) for the purpose of safeguarding the economic well-being of the Islands**".

These same powers are contained in the Constitution; therefore the Governor already has these powers so it was considered that it would be duplication to have to again recite these same powers in this legislation. So, if the Governor feels that it is necessary for him to intercept any calls, whether it is being in connection with the commission of a crime or otherwise, he already has that power under the Constitution. So, I am going to be proposing to delete this paragraph since the power is already in the Constitution for the Governor.

Part (7)–Review of Administrative Decisions and Appeals

Clause 56 sets out the procedures for the review of any administrative decision with respect to licensees or licensing made by the Authority.

The Speaker: Honourable Minister you have some 1 hour and 29 minutes remaining.

Hon. Linford A. Pierson: Thank you, Madam Speaker. I would like to take the opportunity to say that the reserved powers of the Governor, is contained under section (7) of the Constitution.

Clause 57 sets out the procedures for an appeal to the Court from any decision made by the Authority.

I now wish to turn to part (8) which deals with the offences under the Bill.

Offence

This Bill creates a number of offences and they are as follows:-

Clause 58 defines various offences in relation to the inspection by the Authority of ICT installations, equipment, apparatus and stations.

Clause 59 creates an offence of engaging in specified ICT activities without a licence.

Clause 60 defines the offence of causing malicious damage to any ICT network or ICT apparatus.

[Pause]

Clause 61 prescribes that obstructing any investigation being carried out by the Authority under this Law is an offence.

Clause 62 defines the offence of refusing to produce, destroying or altering any physical evidence required to be produced under this Law.

Clause 63 defines the offence of giving false or misleading information to the Authority.

Clause 64 prescribes that failure to give evidence to the Authority is an offence.

Clause 65 defines the offence of sending a message that is dangerous to the security of the Islands or contrary to public order.

Clause 66 defines the territorial scope of inchoate offences.

Clause 67 creates the offence of using an ICT service to defraud, abuse, annoy, threaten or harass any person.

Clause 68 defines the situation which arises when an offence is committed by a body corporate.

Clause 69 prescribes that when a person is convicted of an offence under this Law, the Court may also make an order for the payment of compensation.

Under the general section of the Bill:

Clause 70 contains a general power to make regulations.

Clause 71 provides the Authority and its employees with immunity from any claim for damages resulting from the performance of their functions under this Law, unless it can be shown that their act or omission was in bad faith.

I should mention here, Madam Speaker that these clauses are references to the latest White Paper that was distributed, because that was what I laid on the Table of the House. Since then, I am aware that a Green Paper has been circulated and the numbering might be slightly out but I am following the Paper that was laid on the Table of the House.

Clause 72 and the second schedule set out the rights and procedures for the establishment of ICT installations on land.

Clause 73 and the third schedule make necessary amendments to The Electronics Transaction Law 2000. The substance of these amendments is to transfer to the ICT Authority many of the powers and responsibilities previously held by the Minister.

Clause 74 repeals the existing Broadcasting Law (1996 Revision); The Radio Law (1996 Revision); and The Telephone Law (1997 Revision) that are superseded by this Law.

Clause 75 which will be the subject of a committee-staged amendment specifies the transitional arrangement. The Amendment proposes to clarify the position with respect to existing licences by combining sub-sections (1) and (2). It states that, any licences issued under the old Radio Broadcasting or Telephone Laws shall remain valid until the 31 December 2002 or such later date as the Governor in Council may specify. Thereafter, new licences under the ICT Law will be required. The provision is to give time for the new ICT Authority to be established and staffed.

Sub-section (3) empowers the Minister as a temporary measure to issue licences under the new Law. This will extend only until such time as the Board of the Authority states that it is ready to assume this responsibility. The Governor in Council can appoint such persons, as he considers necessary to assist the Minister with this temporary task. The provision is necessary because there will be an ongoing requirement to licence, for example, radios, ships and aircraft. Such applications cannot be deferred until the ICT Authority is fully in place. Sub-section (4) ensures that all monies owed to Government under the old laws remain recoverable.

Finally, sub-section (5) deals with the special case of Cable and Wireless's existing telecommunications licences. As it is currently the subject of negotiations between Government and that Company, this licence will not be subject to automatic expiration on the 31 December, 2002, as will be the case for other licences. I would like to repeat that *[repeated]*.

Rather, the termination date will be specified by the Governor in Council by notice published in the Gazette. While on the subject of Cable and Wireless, I must say that I am grateful to that Company for the many constructive comments they have made during the drafting of the Bill. However, in my opinion some of their suggestions and objections have been, not surprisingly, aimed at strengthening their own position. This is understandable and I do not blame them in the least.

I do have objections, however, when anyone raises issues solely for the purpose of delaying the implementation of this legislation or any other aspect of liberalisation. In this connection, I would like to inform Honourable Members that I am in the course of writing to Cable and Wireless's Regional and General Managers concerning the perceived delays and lack of co-operation the Company is giving to the special audit being carried out by the Auditor General.

Honourable Members may recall that this audit is being conducted so that we (and the public) can be assured that Cable and Wireless has accurately calculated the licence fees due to Government since 1992. It was authorised by His Excellency under section (46) of the Public Finance and Audit Law in the public interest. However, Cable and Wireless has refused to recognise this fact and has insisted that the audit be carried out under the terms of their licence.

This has placed restrictions on what the auditors can do.

This audit has been underway since August last year, whenever Cable and Wireless has granted access to the auditors. The Ministry and the Auditor General are most anxious to conclude this phase of the audit as soon as possible. However, as an example, the Auditor General has been awaiting information from the Company since November 2001. Once this information is made available phase one of the audit should be completed within 6 man-weeks.

Honourable Members may also wish to know that in another letter to the Company, I am advising them that any unreasonable attempts to tie up the market prior to the introduction of competition by, for example,

- ◆ giving incentives to customers to sign long-term contracts,
- ◆ bundling the provision of equipment and services, or
- ◆ purchasing band-width beyond their realistic needs will be considered anti-competitive practices that will be acted upon immediately by the ICT Authority.

I trust that Cable and Wireless will react responsibly to my comments and that our discussions on liberalisation will be the genuine negotiations that they have publicly committed to. Mere delaying tactics will not be acceptable to Government or the people of the Cayman Islands.

The orderly introduction of fair and equitable competition in the ICT sector is urgently required for the social and economic wellbeing of these Islands. This Bill provides the legislative framework for this to happen. I am therefore pleased to move the second reading of The Information and Communications Technology Bill, 2002, and I commend it to all Honourable Members.

Thank you, Madam Speaker.

The Speaker: Thank you Honourable Minister. Does any other Member wish to speak? The Elected Member from the district of East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. The fact that I got the podium does not mean that I will be long.

I rise to make my contribution to the Bill for a Law to establish The Information and Communication Technology Authority and to vest property in the authority, and for incidental and connected purposes. At the outset, I think, I should make it abundantly clear that I and the Opposition supports—I speak on behalf of Members of the Opposition, as well, because I am aware that all five of us support deregulation in the telecommunication industry.

In my former life I too have been involved in deregulation in other places in the world where I have seen it done. I understand the benefits of deregulation, particularly, to the consumer and while I under-

stand that, I also recognise that this is a very serious bill before us. My contribution to this Bill is going to take the form of constructive criticism and I trust the Government will view it as that.

There are a few areas I see in the Bill which I think the Government should look at. One of the questions I would like to ask the Government has to do with the Utilities Commission, which we have heard of for many years. How is this is going to synchronise with the existence of a Utilities Commission? Certainly, this Authority which is being formed would have some, if not total, autonomy. I know that there are Members of this Honourable House who believes in the Utilities Commission and if that comes into being then how does the ICT Authority work with the Utilities Commission? That is a situation in need of some consideration because a Utilities Commission is not only going to cover electricity and water, it should include also telecommunications.

First I will go to one particular area, which deals with the authority of the Governor. I believe the Minister in his presentation spoke of deleting one particular area; that is section 55 because he intends to bring a committee stage amendment to that. However, in the definitions under the Law, the **“Governor” means the person for the time being holding the office of Governor of the Islands, and includes any person for the time being lawfully performing the functions of that office under section 1 of Schedule 2 to the Cayman Islands (Constitution) Orders 1972 to 1973...**” Madam Speaker, there are a number of areas in this Law where the Governor is mentioned as having full authority and I am wondering if it was intentional or if it is a mistake. Under section 17 **“The Authority shall pay into the Treasury, at such times and in such manner as the Governor may direct...”** That is repayment of advances. Madam Speaker, I wonder why the Governor has to get involved? I appreciate the Governor in Council but why does the Governor have to get involved in repayment of advances?

I was just reminded to ask whether or not we are going forward or backwards constitutionally, especially now that the Constitution is being modernised. Further, if I may, please allow me to read section 17 which says: **“The Authority shall pay into the Treasury, at any such times and in such manner as the Governor may direct, such amounts as may be so directed in or towards repayment or advances made to the Authority under section 16, and any sums issued in fulfilment of any guarantee given thereunder, and shall pay into the Treasury on what is outstanding for the time being in respect of such advances and of any sum so issued at such rate as the Governor may direct . . .”** It has to be paid to the Treasury under The Governor’s direction and then the Governor sets the rate. Madam Speaker, I think that maybe it should be the Authority or Financial Secretary. The Financial Secretary is responsible for the monies in this country so,

maybe it is a mistake there, but I certainly would like to think that the Governor has other things to do; therefore, we do not need him to control the monies of our country too.

Madam Speaker, we then turn to section 31 and it says: **“A licence granted under this Law may be modified where the Authority and the licensee, by agreement in writing, agree to modify the licence.”** That is 31(1). Section 31(2) goes on to say: **“Notwithstanding the provision of subsection (1) and subject to any special conditions concerning modification in the relevant license, the Authority shall, on the direction of the Governor and without the agreement of the licensee modify a licence for reasons of security of the Islands.”** Again, like the Minister elaborated on, that provision is already in our Constitution. I respect if there is going to be some kind of authority to modify a licence then I see no reason why the Governor needs to play a part in that. I respect, Madam Speaker, and I believe, that it should be, maybe the Governor in Council, which includes the Members of Executive Council. However, if he so wishes to consult with the Members of Executive Council then I respect that, but the Governor currently has that responsibility for security so, I see no need for it to be included in the Law. Certainly, I am sure the Minister will let us know how that came about and whether or not it is within the right place.

We go to section 32, again notwithstanding the provisions of subsection (1) which is revocation of licence says: **“the Authority on the order of the Governor, shall without notice suspend any licence if the suspension is necessary for reasons of security of the Islands.”** Again, Madam Speaker, I see no need to have it in the Law but someone can tell me why it is put in there. The Governor's office has the authority already enshrined in our Constitution; there is no need to have it rubbed in that he needs more.

Madam Speaker, moving on we go to section 53 and again, this is the one that refers to section 55 where the Governor has under the Law the right to intercept any telephone or transmission by means of an ICT service. So, in 53, it refers to: **“A person shall not be guilty of an offence under this section if- (a) the message is intercepted, monitored or interrupted in obedience to a warrant issued by the Governor under section 55.”** This, therefore, gives the Governor the right to do it. Like the Minister already said, the Governor already has all these reserved powers and again, I see no need to have him involved in the running or the application of a specific Law.

Next, we look under section 70 and it says: **“Without derogating from the powers to make regulations conferred elsewhere in this Law, the Governor may make regulations.”** I always thought it was the Governor in Council who would decide on the regulations, therefore, I am wondering if these are slip ups that were made, or if more power is being

conferred again to the office of the Governor, whereby the Elected Members of Executive Council will have no say in the regulations.

I would like to make it clear that the reason I am questioning the position of ‘Governor’ being here in this Law so many times, is because it is defined in here as ‘Governor’, the person holding that office. It is no question of the conduct of the Governor; it is merely this Law.

We go to what is numbered in the White Paper 76 (but I believe will be renumbered to 75 section (2)). It says: **“A concession, license, or authorisation issued before the commencement of this Law, under any previous Law regulating any aspect of ICT services or ICT networks in the Islands shall, to the extent of their consistency with this Law, be deemed to have been issued under this law until the 31 December 2002, or such later date as the Governor may, by notice in the Gazette, specify.”**

Then, Madam Speaker, section (3) says: **“The Minister may, where the Authority has not been established at the date of the commencement of this Law and until such time as the Board may specify by resolution, have the power to issue on any concession, licence or authorisation which the Authority is empowered by this Law to issue; . . .”** I see that as one contradicting the other. The Minister has the authority and the Governor also has the authority. We have to decide which it is going to be. It then goes on to say, **“. . . and the Governor in Council may, for such period of time as it shall determine, appoint such persons as it considers necessary to assist the Minister in carrying out such functions.”**

I personally, would have liked to have seen the authority created in tandem with the passage of this Law. That is not to cast any aspersions at the Minister or anyone else, but I would have preferred to see them. Maybe we can put a time frame on when the authority must be in place. When we get to the situation where we are repealing the Broadcasting Law—the Radio Law; these are two areas that need to be monitored on a daily basis. We all know that the Ministers have their plates filled, as it is, and for one more Minister to take on monitoring the licensing of radios and the bands for one way radios, two way radios and so on, without any disrespect to the Minister, I personally feel that we need to have someone in place, as soon as possible. I would really have preferred to have seen the authority in place, or thereabout, even prior to this Law getting passage, or provisions made to have it in place immediately. So, maybe the Minister will assist us by giving us a time frame to get the authority in place.

I would like to turn now to Universal Service. While I understand that this section of the Law will not come into effect until later on, there are a few areas that I do not understand and I would like to draw them to the attention of the Government for clarification. When licences are issued to any licensee, provisions

are made whereby under section 40 of the Law that states: **“The Governor in Council may, on the recommendation of the Authority, by a regulation under this Law specify: (a) categories of universal service that are required; and (b) categories of ICT network providers and ICT service providers that may be required to provide one or more of such required universal services”**.

As I understand it, this section is speaking about public telephones; emergency services; directory services; internet accesses for educational purposes; and health facilities. We all know that does not attract a charge so, I understand the universal fund being set up.

When we go to section 43 it says: **“The Authority shall include a condition in the licence of each licensee that provides and ICT service or an ICT network specified under the provisions of section 40, that each such licensee shall contribute to the Universal Service Fund or any one or more sub-funds of the Universal Service Fund”**. Let me draw a little scenario where the authority issues 20 licences for radio, et cetera. Ten out of those services are for telephone services and five out of those telephone services have a licence which says they must provide the universal service, whether it is each one have all, or it is divided amongst them, but only they must contribute to this fund; those five. The other five that are issued with a telephone licence not providing it, does not have to contribute to the fund. That is what it says to me and I do not think that is fair if that is the way it is intended. It does not say all licensees must pay into the universal fund. It is only those that the Governor in Council will specify. Therefore, it could be that the Governor in Council does not require certain licences to have that tag on to them.

Without trying to defend anyone, if I could, I will use, in comparison, Cable and Wireless with another company coming into the country providing telephone service. We all know that Cable and Wireless is the sole provider right now and their network goes throughout the three Islands. Certainly, it would be in the onset of Cable and Wireless providing all the public phones, et cetera; therefore if another company was to be given a licence and not be required to pay into that universal fund we would see an unfair situation with the current provider of telephone services. I am not saying that is what is going to happen, I am just drawing an illustration that it is a possibility. How the law has been written—maybe it needs to be changed to say that ‘all’ of those must pay it, or the universal fund services would be related to ‘all’ of those with telephone and internet services.

Now that we are repealing the Broadcasting Law and the Radio Law, it is my understanding that radios, television and so on, falls under this law and must be subject to the same license that the telephone companies would be subject to. Certainly, they would not be providing the public telephone for emergency services and things of that nature; or Internet

access either. However, they will have to have a licence and in so saying, they will not be required to put in to the universal fund. Maybe it could be changed to say: ‘all licences will attract the universal fund’. It may not be the best thing to do, but I know that all of those who are providing telephone services in this country should attract the universal fund.

The other area I noticed, which needs some explanation, is under section 45 (5). Section 45 is concerning interconnection agreements and in subsection (5) it says: **“Where parties cannot agree upon interconnection rates, the Minister may, upon the recommendation of the Authority, impose an interconnection rate”**. Again, in this instance, maybe this should also go to the Governor in Council to get a broader view of the situation; not to say that any Minister would, out of aggravation or otherwise, do any thing that is not in keeping with the law or keeping within fairness, but I believe we should get a broader understanding of what is going on prior to making a decision of such magnitude where there is a dispute.

Another area is that of licensing. I have not found any provisions in the Law for the renewal of a license with provisions for charges to be applied because section 28 says: **“A license granted under this Law- (a) shall be for the period specified in the licence and shall not be granted for a period longer than 15 years”**. I believe those fifteen years were times when the Local Companies Control Law (LCCL) would be for long periods such as that. I really believe that provision should be shortened to say five years or there about. As we all know, and the Minister is well aware, that technology changes by the minute. Many years ago it was by the six months and then they started reducing that time and it is changing by the minute now-a-days. If we are tied in to any provider with specific conditions attached and a new technology comes on the market, we certainly would want to be the beneficiaries of that new technology. Even if we want to compromise and split the fifteen in two and say seven years, but it can be for a period up to fifteen years; it is not to say that it will be given for fifteen years. Certainly, with the fifteen years there, provisions are in there where it can be issued for fifteen years. I think it would be in the best interest to shorten that.

It is not only today that this Law is going to be legislated for. While the spirit of the Government of today may be not to issue a licence up to fifteen years, this Law will be in place forever and ever. I think we have a responsibility to ensure that certain safeguards are placed in the Law to ensure any future Ministers or Governments adhere to something reasonable ensuring that the people of this country gets full benefits. That is why I am suggesting a lower time-frame for the issuing of licence.

We are aware that the Caribbean Utilities Company (CUC) licence was for some twenty or twenty-five years. I think the licence that Cable and

Wireless currently has is some twenty years also. The point is that I believe these periods are too long. Too long a period and there is nothing wrong with reducing the time. It does not mean that anything is going to happen; it can be renewed if the relationship is right; if the contract is being maintained in the proper manner. Certainly, the people of this country should have an opportunity to be able to go back in and renegotiate a contract in a shorter period of time if they are not satisfied with it. Yes, Madam Speaker, I know that the complaint is going to be about the returns on their money and that it is rather inflexible, because it does not give them enough time to get returns on what their investments are and so on. I understand all of that!

If any company is issued a five year licence and they are living within the guidelines of that contract maintaining an efficiency and effectiveness; giving the consumers their proper due, then they should not be afraid to go back to the negotiating table and renegotiate their licence. If they are in good standing with their contract it is given that their contract will be renewed. However, if we find a company not complying with the conditions of the contract and the Government walks in to negotiate that contract, they will be breaking the contract. We have much experience with breaking of contracts in this country and it costs the country more than it really should if the contracts were left to go their full course, therefore if we had a timeframe where we could reasonably go back to, then we would not get ourselves in those problems.

Another area I thought I would discuss is section 34—register of applications and licenses. Section 34 says: **“The Authority shall cause to be kept a register of all applications for licences received by it and all such licences granted pursuant to this Law and such register may be kept in electronic form”**. I just wonder what will be the content of the registry with regards to making it public and what will be in there. Will it be full details or pertinent issues relating to the application; the membership; the owners; or other related information?

Under section 35—the cease and desist orders says: **“(1) Where the Authority is satisfied that there are reasonable grounds for believing that any conduct specified in subsection (2) is being carried out by any person, the Authority may issue a cease and desist order to the person concerned.**

“(2) The conduct referred to in subsection (1) includes any operations in contravention of the Law or regulation made under this Law.”

Subsection 7 says: **“(7) The decision of the Authority shall be notified to the appellant with the least possible delay.”** Because it gives that, the person can appeal that cease and desist order. Now, I wonder if that is the final determination of that situation. Is there any further room for appeal? Would it go to the Governor in Council, or to the court, or to the Minister? It is the authority who makes the decision, but certainly a person should have the right to appeal further. It appears like the authority would be final.

Another section that seems to me, which needs some revision, is in section 44—interconnection and infrastructure sharing and 44 (1) says: **“(1) Subject to the provisions of this section, a licensee that operates a public ICT network shall not refuse, obstruct, or in any way impede another licensee in the making of an interconnection with its ICT network and shall, in accordance with the provisions of this section, ensure that the interconnection provided is made at technically feasible physical points.”** Then subsection (4) says; **“(4) A request by a licensee to make any interconnection with another licensee shall be refused only on reasonable grounds and such refusal shall be in writing.”** The fact that a refusal can be made under section 4, I wonder if it should not be mentioned in section 1 because a refusal is provided for in section 4.

Madam Speaker, if you will give me a minute I will wind up shortly.

As I said earlier, I support deregulation. Liberalisation is a new word for deregulation. As I know, it has always been deregulation, but as time goes on we change for more scientific words. Deregulation or liberalisation, which ever we want to call it, is good for any country. I recall many years ago in Australia, in one section, there were forty odd utilities and within a short time, as a result of deregulation that was down within a manageable amount of some fifteen utilities because of the merging of companies. In this instance, it is a little different because we only have one provider of telephone in this country. We are now going to spread it out a little more and I welcome that because the consumer the people of this country will benefit as a result of that.

For too long we have heard our people in this country talk about Cable and Wireless having the only say and they do what they want. We have heard that CUC is the only electricity provider and they do what they want. We are catching up with the rest of the world in deregulating these services. We have, over the years in this country, allowed five to six hundred banks to come in and compete amongst each other. I applaud the Minister for making such bold steps in coming forward and taking that plunge that no one else would do. Granted, in the day of Cable and Wireless and CUC those were the days when the Cayman Islands was a little place time forgot and no one else wanted to come here. We have to respect these companies and be grateful to them for what they have done and for their contribution to the development of this country. I believe Cable and Wireless and CUC is like the motto that Chevrolet uses in America; it is the ‘heartbeat of America’. I believe, these two utilities have been the heartbeat of this country. They have played a major role in the success story that Cayman boasts of today.

However, that is today and there is a new horizon; a new world and the Cayman Islands has to take its rightful place in that new order, and in so do-

ing we have to move forward. To do that these companies must be encouraged to come with us but there are other companies who can provide services also. I am therefore certain that the Minister and all Members of this Honourable House respect Cable and Wireless; I do! I certainly would not do anything that would contribute to any unfairness to them. However, Cable and Wireless, as the Minister said, has been very cooperative and I now invite Cable and Wireless to embrace the opportunity of moving forward with us in this new order of things.

The people of this country are going to benefit as a result of this Law. Certainly, I would like to think that Cable and Wireless will benefit also. In a competitive world and a competitive environment here in the Cayman Islands, certainly Cable and Wireless will have to pull up their boot straps and be more efficient, more effective, in how they conduct their business.

I certainly would encourage the Minister, in his instructions to the Authority and his deliberations, to consider that Cable and Wireless has been here a long time providing local service in this country. I believe, Cable and Wireless has been complaining about having to subsidise locally for some time now. As little as I know about telecommunications, it is my understanding that the international market is where the money is at, and I believe, that it is fair to Cable and Wireless that any other providers coming in here have to share in providing the local service to our people.

I do not believe that any provider should come in here and exclusively have a particular section of the market and then the provider that was here all these years with us are left to provide that which needs to be subsidised. I respect that the universal fund will address some of that issue but I believe that there are other issues that needs to be addressed. I certainly feel that Cable and Wireless needs a fair shake at it to provide that and I am sure the Minister will give them that fair shake. Certainly, Cable and Wireless cannot in all fairness, expect to be protected forever and as a result of this Law, get anything in here that is going to wholly and solely protect their environment; the situation that they have lived through forever.

I welcome the deregulation because the cellular charges in this country are astronomical, which I have spoken about before. I cannot, in all fairness to Cable and Wireless say what is cost to operate that service. However, to me, as a user, it is extremely high. I have very little authority on telephone rates and with electricity I can match whomever when it comes to rate structuring, but with telephone rates I do not have that. I do know from a user standpoint that it is extremely high. As for the service, I have complained about this privately, publicly and on the Floor of this Honourable House; the service is not good and there are areas in this country where you cannot get service. I believe that is a failing in Cable and Wireless, which further compounds the complaints from our people when we have expensive cellular service and we cannot talk on the phone at certain points in this

country. I find it extremely difficult to accept that a little Island some 20 odd miles long and we cannot have total coverage. I understand the capital investment required; I do not know how much it will be, but the fact is, that there must be some consideration for the end user where you are paying for the service and you are not getting it.

I trust and I hope that as a result of this deregulation, this will make Cable and Wireless pull their socks up—so to speak, because that is exactly what I believe will happen here.

I know the corporate world will applaud the Minister. The Minister spoke in his introduction of threatening letters because of his initiative to deregulate the telecommunication industry in this country. That is unfortunate because I believe, that we all come into this Honourable House to do what we believe is in the best interest of the majority of the people, and it has to be the minority who sends these threatening letters.

I trust that they have listened to your good self, Madam Speaker, when you read from the Immunities and Privileges Law, which governs this Honourable House and the conduct of Members of this Honourable House. We may disagree but people must have respect for others. I had the opportunity to read a letter showed to me by the Minister this morning, which he referred to. Certainly, it should not, and cannot be read into the records of this Honourable House. I can say that it was one of the most derogatory letters I have ever seen. That has to stop in this country. People must be respected; they must be opposed. Just because the Minister is going about his responsibilities to this country, someone would sit down and pen such a threatening letter—I cry shame on those people Madam Speaker. I encourage the Minister to take it to the extent of the Law. It is only \$8 hundred but it would teach someone a lesson. I applaud you when you asked for some amendments to be made to it in your contribution to the Throne Speech.

I do not have a lot of problems, as I said, with the Bill, except those that I outlined. I still would like to ask the Minister to recognise the concerns that we the Opposition have with this Bill and accept them as they are given, as constructive criticism. I know I am no authority on the Law, and there maybe some things that I said that can be justified in a different form. We all look forward to hearing his reply and 'yes', while this Bill has been coming for a very, very long time it has taken the current Minister to bring it to this Honourable House; for that I applaud him and I give him my full support on any deregulation that is going to go on in this country to bring peace, quiet, harmony to the people of this country—peace of mind! Our people are crying out about the injustice as they see it, quote unquote 'injustice'. I guess we all are crying out about the high cost. I trust that the people of this country will all be a little better off as a result of deregulation. I thank you, Madam Speaker.

The Speaker: Thank you Member from East End. We will now suspend for the morning break.

Proceedings suspended at 12.02 pm

Proceedings resumed at 12.23 pm

The Speaker: Please be seated. Proceedings are resumed. Before we continue with the debate the Honourable Minister responsible for Community Services would wish to make comment.

Dr. the Hon. Frank S. McField: Thank you, Madam Speaker.

I would be grateful if you and this Honourable House would consider a suspension to allow us to attend the International Women's Day Ceremony that is being held at the Women's Resource Centre beginning at 12.30 today. So, we would like if you could agree with us suspending for a luncheon break at this particular time.

The Speaker: I am entirely at the will of the House but I should think that it would be a function that all Parliamentarians would wish to have a presence. It is my implied indication that all Members are eager to get to the function to show their solidarity and support, and with that in mind we shall now take the luncheon break. We shall reconvene at 2.30.

Proceedings suspended at 12.24 pm

Proceedings resumed at 2.41 pm

The Speaker: Please be seated. Proceedings are resumed. Does any other Member wish to speak?

The Second Elected Member from the district of Cayman Brac and Little Cayman.

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

I only rise to give but a few comments on the Bill for a Law to establish the Information and Communications Technology Authority; to vest property in the authority; and for incidental and connected purposes.

This particular Bill has been worked on by the Minister responsible for Communication. The Honourable Minister in his introduction outlined the challenges he faced in deriving at the point we are at to where a Bill could be introduced. I praise him for the efforts and accept that the work commenced over a year ago, however, I would like to give recognition for bringing this Bill here today, not only to the Minister but to all his colleagues on Executive Council who vetted it and gave their support along with the supporting Members of the Back Bench. I also give recognition to the entire United Democratic Party for bringing this revolutionary Bill to the forefront.

The area that interests me most, which I will focus my attention on, is that of the universal service

fund. Cable and Wireless, over the years of service, has not neglected to provide service for our district of Cayman Brac and Little Cayman. It has been admitted by the company that service is not economical and cost effective to provide, however, they have done so. It is important that this fund is in place which will allow for any new competitor coming into the market to provide service to the Sister Islands, all be it at some degree of loss, and will be compensated from the fund, if I understand the working of such a fund correctly.

The Sister Islands of Cayman Brac and Little Cayman have suffered as a result of high communication costs. We are on the verge of launching a new industry in the Sister Islands of informatics (Brac Informatics), a project in which I am extremely excited about and I am sure you are also, for it has great potential for the development of Cayman Brac.

Cayman Brac Informatics Corporation, which is a locally owned company, and for the sake of emphasis I would like to stress that it is owned by Cayman Brackers, when I say locally owned. This is a company that has a potential of employing up to some fifteen individuals when fully staffed. Just this past week, on Wednesday, I had the opportunity of touring the facility along with my colleague, the Honourable Minister for Community Service, and we were so impressed at the development and the rapid pace under which it is coming to fruition. From the onset, the sponsors of this project made it known that telecommunication cost between the Islands and between Cayman Brac and Little Cayman to the international world, was of great concern.

The liberalisation of telecommunication as provided by this Bill, will allow for a competitor to come in. I want to stress the fact that I am cognisant of the fact that not in all occasions will competition yield lower prices but it is historically the most significant tool in deriving a lower mechanism. However, industries such as telecommunication that requires certain economies of scale to operate, once that scale is divided over greater providers there is an adjustment period. A period of time that the community as a whole may not see the great reduction in price, and I urge the community not to set their expectations too high to understand that the process under which competition will lead to lower prices, is a timely one.

The industry that we are hoping to develop in the Brac is not completed just with Brac Informatics Corporation; it had a modular effect. It is an industry that can grow; it is an industry starting with two primary businesses, but has the ability to grow into a full fledged industry and curtail the continually declining economy that we have in Cayman Brac. It has been established by everyone who were involved in the project, including you, Madam Speaker, because telecommunication cost must be reduced for the viability of this industry.

In the early part of last year when the first proposal came out for this industry, I recall when you and I went over to the Brac and had an emergency

meeting with a group of interested individuals; spear-headed by one of our own involved in the telecommunication industry here in Grand Cayman. Out of those meetings evolved this project that we have before us here today in our community; a project that has instilled a certain degree of hope. I thank the Honourable Minister and the entire United Democratic Party for spearheading this Bill to get it through, which allows for reduced telecommunication costs in the long run, but also provides the basis for the registration and licensing of this company.

I am committed to providing the Minister with the support necessary for the passage of this Bill. I thank the Members of the Opposition through their spokesman for giving their support to ensure that this Bill sees safe passage.

The Bill, as presented here, is one that will affect every member of the community. It affects not only the commercial side of this Island but also the residential; the parochial small man; man on the street. It provides us as a Government with one concrete tool that we can say we have accomplished something. We have not only planned and talked about the much needed liberalisation, but we have put in place the mechanism to achieve this. In adhering to the established policy of the United Democratic Party, of maintaining short contributions and allowing those who are sponsoring the Bill to talk on it, I have only filled in the gap that is relevant to our district in appreciation of the impact that this Bill will have on our district. I now take my seat and give the Honourable Minister my support.

The Speaker: Does any other Member wish to speak? The Fourth Elected Member from the district of West Bay.

Mr. Cline A. Glidden, Jr: Thank you, Madam Speaker. It gives me a great sense of pride today to be able to stand here in support of a revolutionary Bill, like this ICT Bill that we are discussing.

Deregulation and liberalisation of the telecommunication market here in Cayman has been discussed for quite a long time. I can remember it took up quite a bit of time during the campaign, not so very long ago, as to the recognised need for lower pricing in the telecommunications market to allow for the introduction and the establishment of new industries, like e-commerce and e-business. It gives me great pleasure to be a part of the United Democratic Party Government who has toiled long and hard to make this Bill a reality. Like the Minister said, there was quite a bit of trials and tribulations in getting it to the stage where it is at. Knowing a bit about telecommunications, I fully recognise that there will be a lot more difficulties with the road forward, but as we often say, the hardest part of the journey starts with the first step and since we have now embarked with that first step, I look forward to the ongoing liberalisation and the deregulation of the industry.

We all recognise the important role that telecommunication plays in our everyday lives. If we look at today's paper we see where the headlines of the paper talks about the reliability of Cayman's communication infrastructure has scored in a major acquisition—an international recognised Medical School. I think that highlights the facts that we have had for some twenty five to thirty years very good, stable, sound, high quality telecommunication service provided by our local company, Cable and Wireless.

Even though we may query and have some little pet concerns and pet peers at times, as to the quality of the service they provide, in general when we accept the economies of scale, I think it is an accepted fact that Cable and Wireless has done a remarkable job with providing telecommunications and have played a vital part in the development of Cayman. I say that, I guess, with a bit of bias, since I did spend quite a bit of my working career with them. I credit them for giving me quite a bit of training in communications and in business practices on a whole.

I am very happy to be able to play a part in this legislation and I look forward to continuing to work with the Minister and the whole United Democratic Party in the continued pursuit of the deregulation of this market.

I think it is noteworthy to say that when we started looking at telecommunications we were not exactly sure what would have been the best way to make the required changes in the telecommunications market. There were some discussions as to the fact of having a monopoly. We have evidence of other places like Isle of Mann where monopolies are not necessary to deregulate to end up getting or having the competitive prices or the quality that you may feel is required. On that basis we were able to enter into negotiations with Cable and Wireless in discussions as to what they were actually able to provide as far as more competitive rates, based on their years and experience here in Cayman.

We worked with them for quite a while and after they had made what would be considered their best offer, as far as the pricing structure would go, which involved quite a bit of re-balancing, the decision was taken by the Government that we would pursue the deregulation and the liberalisation. This would allow the market in as much as possible, to dictate pricing in quality of the services that are provided.

I think that the Second Elected Member from Cayman Brac, my colleague, made the point that liberalisation does not necessarily mean automatically better pricing. It is important to note that the Government itself does recognise that fact, and this is not the 'end all' and the 'be all' solution to what we are trying to accomplish. However, we do recognise that telecommunication does play an important role and a part in the cost of living and doing business in Cayman. It is a very necessary balance to have the balance of good quality service at a good cost and, of course,

good cost is all relative because I am sure if you were to ask our local company now, they feel that the cost they are providing is at a good cost based on the economy scales. Only time will really tell as to whether the market will be able to dictate better pricing with the liberalisation of the market.

It is very important to note that we recognise the need for, not only low pricing, but good quality. Technology has allowed for some changes, as far as quality international services, and they are able to do a lot of innovative things with frequencies to allow for much more traffic at such a reduced price, but in many cases, a reduce quality as well. This Bill and the authority, which will be required to be established, will have to do quite a bit of policing to ensure that we do not lose the high quality we have gotten to expect and demand because of the need or the want of lower pricing. However, in many cases what we will hope to achieve as well, is a choice. In the free market when we have multiple carriers it gives you the option of choosing, if necessary, a lower quality. If that lesser quality is sufficient for your needs then you will have the choice, or the possibility is, you would have a choice for a lower price for your service at a lesser quality, which is still sufficient for your needs.

It is also important to note that Cable and Wireless has done a tremendous job, as far as training and the promotion of local Caymanians in the telecom industry. We have had the pleasure of seeing some of our own people actually being trained and going to represent as managers in different areas of the region. I am sure that accomplishment has served as a source of pride for all of us. I would only hope that any new players that come into the market in response to this deregulation of the market, would also recognise the need for them to not only be here to provide a service, but to also become good corporate citizens and play their part in the development, the same as Cable and Wireless has done. I think Cable and Wireless has been a role model for most of our big corporations and if more of our bigger companies would have taken an example from Cable and Wireless, as far as sponsorship and the involvement that they do, I dare say that our community would be a much better place.

I think that when the United Democratic Party was looking and pursuing this Bill, we also recognised the need for some entrepreneurial opportunities as well. We see the telecommunications market as being a dynamic and ever developing market. We do recognise that there is quite a bit of expertise in our small community and if the opportunities did arise some of those local people, many of them who were trained by Cable and Wireless, would seize the opportunity to provide some of the services that Cable and Wireless had a monopoly on and provided for many years. The Member from Cayman Brac mentioned the possibilities that exists now in Cayman Brac, we are encouraged and look forward to similar economic benefits and spurts from the deregulation of that industry.

It was interesting to hear the Opposition Member from East End who spoke so favourably of the Bill. It was really encouraging and for a minute there I was not sure that it was actually the Opposition Member speaking. However, it does go to show that this Bill has been researched; the work has been done by the Minister and his staff, and in all reality it appears that the Member did not have too many problems with Bill but he did have a bit of problems with the power that the Bill gave to the Governor. I do recognise that there are some proposed amendments in that way. I will repeat the other credit that the Opposition Member gave just in case the Minister was not in the Chambers at the time. He said that he (the Minister) had achieved something that no one else was able to do. I thought that was great thing for him to say and it certainly says wonders for the United Democratic Party and the Minister. In all the years and in all the discussions of deregulation and liberalisation of the important telecommunication market, along comes the United Democratic Party and now we have a landmark Bill that will move us forward in a deregulation process. That is a great achievement for the Minister who is an integral part of the United Democratic Party.

It goes to show that those difficult decisions that we all campaigned on; those achievements that we talked about as being necessary; those things have all become possible with the structured approach and the introduction of the United Democratic Party. A few months ago, there was a show of strength and unity when there was a budget which was presented that had a lot of opposition both internal and external; the Members stayed together and thankfully it does not appear that there is going to be too much internal opposition to this particular Bill. I am sure the Minister did not know that, at the time when he presented the Bill. Seeing the defamatory letters he got and all the other stuff that was coming from outside; the pressure that he was being put under, I know that he found it comforting to know that he had unified support on this side of the Legislative Assembly. I know that he found it heartening this morning to understand that the support extends to the other side of the Legislative Assembly. We do not expect that to happen too often but it was encouraging to have it happen today.

Having played a part as a member of the Telecom Advisory Committee, I am quite familiar with the Bill and like the Minister, accept that we do have some changes, some amendments that will be made over time. It is a dynamic piece of legislation and it will be changing, and as was said earlier in our truly responsible and united fashion, it is not usual for us to speak too much from this side since it is a Government Motion. However, I would like to say that in regards to the statement made by the Member for East End, where he questioned the need for fifteen years, I too had a problem with the licences that were granted in the past; the one for CUC and the one for Cable and Wireless, but I would say to him, once again the

United Democratic Party has taken care of that problem.

Personally now we can go out and seek even longer licences. I would prefer to see a thirty-year licence instead of a fifteen-year licence. My only problem with that is that it is not an exclusive licence. If we remove the exclusivity, it then means that if a company is not providing the quality of service or the cost effectiveness which we would require, the market is open for another company to come in to provide it. However, I would like for companies like Cable and Wireless or CUC to be willing to make the fifteen year or the thirty year commitments to the country.

Telecommunications is an expensive commodity. In the past if Cable and Wireless (I will use them as an example) made an investment in the new exchanges for \$30 million with a depreciation time of five to seven years on that \$30 million, or on that equipment, and during that time new technology became available, there really was not a lot of encouragement or impetus on their part to now devalue that equipment quicker and replace it with the newer technology. However, in the free market where we have competition allowed, if they are not providing the newer services and the best price possible, it will allow the opportunity for another company to come in and provide those services. So, very quickly, Cable and Wireless, or the existing company, will recognise the need in having to make the additional investment as required to provide the services that we as a people will demand.

So, I have no fear of the 15-year contracts; I have no fear of longer ones. I fully recognise that being a highly capital intensive industry the companies will want a guarantee for the recovery of their investment.

The only other point that needs clarification is the part where we talk about allowing competition and not allowing competition in specific areas. I am not sure exactly how the authority will decide to deal with that. What I will say, is that if we are going to actively encourage competition I do not think that we can do that by expecting a company which is coming in to do business now, to come in and do what Cable and Wireless has had thirty years to do. So, if we are now expecting that company to come in and provide the same services that have been developed over the lifetime that Cable and Wireless has had here, I think it would be quite limiting to the new companies that would be coming in.

I fully expect that the Government will be approached, and in many cases provide some new services which Cable and Wireless do not currently provide, or maybe some services that they feel can be competitive to Cable and Wireless. I think the people of Cayman will benefit from allowing that to happen, which is the purpose of this legislation. We do accept that Cable and Wireless has been expected to provide full telecommunications in conjunction with the agreements that they currently hold but I think that it is

also fair to say that they have had thirty years to recoup that investment they have made.

Even though they have played a vital role, I do believe, that it is fair to say that they have been good to the Cayman Islands and the Cayman Islands have been good to them. Now that we are finally catching up to what has been going on in the other territories, I do think that we have to be careful as to how much of an advantage or debt we still feel that is owed to the incumbent company. I do feel that it is very possible, based on the economies of scale that do exist in Cayman, that if we are going to be actively attracting other competitors, we may have to start to make some changes and some concessions in very much the same way that we have had to do in other industries to attract competitive business here.

Take for example, in one of our Sister Islands where they are actively and aggressively seeking competition, they told the incumbent provider that they were not allowing them to do any price reductions, they were allowing them to introduce any new services; they were basically putting a limit to what they were doing now—to give the new players an opportunity to get established as well. Those are things that would have to be decided as we move forward. I think that this is the first step in a long process, but towards a very important and much needed goal. I do feel that with the unified approach of the United Democratic Party and with the additional support of the Opposition Members, I think that we are starting down a good path. I promise my continued support for this and any other legislation that will benefit the people of the Cayman Islands. Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister responsible for District Administration.

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

I wish to make a brief contribution to the Bill, which is before the House to establish an information communications Technology Law, and to offer my congratulations to the Minister who has brought this piece of legislation. I think it is quite historical in that it is the first such comprehensive piece of legislation dealing with information, communication and technology, at this point in time.

We have in fact, I think, been ushered in to a modern time through this legislation. It has to some extent brought us in touch with the reality of the digital age where we have been lagging to quite an extent. It has also addressed the question of liberalisation, or in more layman's terms, making it possible that the Cayman Islands will no longer cater to one exclusive provider but will make room for others which may choose to come in to compete. Competition, I think is good in all spheres of commerce in this society and elsewhere, because for one thing, and perhaps this is

the main reason, the average consumer gets a better deal. We normally find that prices are better, that is lower, where there is competition because if entities are offering more or less the same service the one that is likely to succeed is the one that offers the best service, in itself, along with the idea that it offers the best price.

I am not one who supports monopolies. I do not think monopolies are good for anything except it serves the purpose of the entity of the person who has the monopoly. I am personally glad to see this Bill in that it has also brought into play the opportunity to change the situation in that regard. Of course, it also opens the swear of being able to compete in the business of e-commerce, which everyone is talking about and attempting to get in on, and certainly, it is one of the areas that the Cayman Islands could make some strides in.

I too, can say that Cable and Wireless, when it first came to the Cayman Islands started out real small but it stayed within the country and it grew from stage to stage until it has reached where it presently is; a major company in the Cayman Islands, which has, at least in the past employed many, many Caymanians. Also, it has provided training for them. I think the company is to be complimented in what it has done in that particular regard. It has been quite outstanding with the training of Caymanians. The part that I do not fully understand is that after having trained them, in recent times most of them were laid off or terminated. For example, in the case of operators, I understand they will be laid off from the service they provided, which will be, as it is termed, 'outsourced'. So, it seems to me that while operators in Cayman will have their jobs terminated, it is a likelihood that people who work as operators in Jamaica will have a greater opportunity of finding jobs.

Madam Speaker, I trust as well, that the people who are qualified and have had their employment terminated will be given every opportunity to offer those skills as independent individuals or independent companies here on the Island. I have had representation made to me that what is happening in some instances here, is that the company is hiring persons from abroad to do some of the technical work that some of its former employees could do and are willing to do. How accurate that is, I am not certain, but it is something that I intend to try to find out more about.

Another point that I would like to make, and certainly, I believe, the Honourable Minister moving this Bill would have thought of that. While competition can cause a reduction in prices where people truly compete, one has to be ever mindful and ever watchful that there is no collusion among companies that could cause prices to remain the same or indeed, even to heighten. This is another aspect that I am sure would need to be watched very carefully. In this Bill three pieces of legislation has been subsumed, that is the Broadcasting Law, The Radio Law and the Telephone Law. It might be necessary at some point,

in the not distant future, to ensure through Regulation, but I think more ideally through Law a few things which were addressed in some of these Laws are also included in this one. For example, in section 12, subsection (d) of the Broadcasting Law says: "**It is the duty of a licensee to ensure that the programs broadcast by him include no discussions or debates where persons taking part express opinions or put forward arguments of a political character which are not properly balanced by other opinions;**"

This, in my opinion, is extremely important and the equivalent of this particular section in the United States, I think, is called equal time. If I have five minutes on the television or the radio, giving my side of the story then an opposing view has the same right to expect that. I have gone through the Law generally and I do not really see this specific requirement under the licensing requirement where it would relate, for example, to television and to a radio station. So, it is small items like this but, which are very important, that as time goes by, we will have to look out and make sure these are indeed covered. However, I would never be one to advocate, that at this time, this Bill should be held up to ensure that this particular item is put back in there right now. It is so very important for this to move forward.

With the coming of this Bill before the House, I think that the Honourable Minister moving it has given just about all of us who are presently Members in this House, the opportunity of fulfilling a promise that all of us made to the electorate back in 2000, when all of us generally campaigned and said that we would work towards trying to see that the cost of telephone service was reduced; at least the opportunity now comes into play. Telecommunications! In general we are now looking in the particular Bill and telecommunications generally to see a reduction in those costs and fees. This Bill gives all of us that opportunity to play our part in keeping that promise.

The last point I wish to make is that while Cable and Wireless continues to be the only provider for telecommunication service in the Cayman Islands, presently, the government must ensure, and I repeat that, it must ensure that any dues or fees owed to the government are paid. Whether this is ensured through negotiation or via legal means, that part of the contract also has to be balanced. That makes sure, again, that the people of the country are protected. They are those whom we serve and also the businesses, which contribute by also using telecommunications. Particularly at this stage when revenue in the government is so difficult to find to meet the needs of the country in general, this is a matter which we must insist upon; payment of any monies which may be due and paid in due time.

I believe that today is indeed a historical moment and, as it appears to me, this Bill has the general approval and consent of the whole House and I think, that is good in itself. I think that it shows a spirit

of co-operation in more ways than one, in that the Honourable Minister has taken into account points made by the Opposition side, as well, and will be incorporating these into amendments at Committee Stage. I am pleased, Madam Speaker, in fact I am delighted to be in a position today to support and vote for this Bill, which is before the House. Thank you.

The Speaker: Thank you. Does any other Member wish to speak?

The Second Elected Member from the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker, for this opportunity to offer a few comments on the Information and Communications Technology Bill, 2002.

I should preface what I say by acknowledging the able, articulate and very careful analysis to which this Bill was treated by my good friend the Elected Member from East End who spoke on behalf of the five Members of the Opposition, as the Opposition chief spokesman on this important Bill. It is only as a result of some further thought that I have been designated to offer a few more observations in relation to other sections of the Bill with which he did not deal. So, I will not be rehearsing anything he said nor will I be dealing with sections which he has dealt with and that should shorten considerably what I have to say.

Before I go into the Bill itself, I just thought I should say something in relation to a few of the remarks made by the Fourth Elected Member for West Bay, particularly, in relation to his stated surprise that this Bill, in general terms, has the support of the Opposition. I suspect that it is simply a bit of political gamesmanship and that the stated surprise is in fact feigned surprise. Because, as Chairman of the ICT Committee, the Fourth Elected Member for West Bay knows full well that the prospect of liberalisation of information technology and communication technology in these Islands, was supported by every Member who sits on this side of this Honourable House. Indeed, both the Elected Member for East End and myself, were members of that committee, so I think, Madam Speaker, that the Fourth Elected Member for West Bay was simply playing the political game when he made those remarks.

He also noted that he would not expect such support to be generally forthcoming from the Opposition, but let me disabuse that Honourable Member and anyone else who shares his jaundice view of the Opposition. We have supported the Animals Law, which passed this Honourable House, this Meeting. We have supported the amendment to the Immigration Law and we are supporting this particular Bill. We have in each instance treated each of those Bills to careful analysis and offered constructive criticism of specific sections, with which we felt there might be some problems. In almost every instance thus far, the Honourable Minister responsible has taken on board

those comments. That is the role and it is important that the Fourth Elected Member for West Bay understand the role of the Opposition, to offer constructive criticisms and that is why we get so upset when, as has happened in the recent past, attempts are made, we believe, to stifle our ability to make that kind of contribution.

The Members on this side of the Floor; the Members of Her Majesty's most loyal Opposition in the Cayman Islands, understand our role. We exercise it responsibly even in the face of attempts to prevent us from so doing. So, as I have had to deal with the Fourth Elected Member for West Bay and to, as I said, disabuse him of certain views he has, I believe I have now done that and I can turn my attention to the substantive Bill.

I would like to draw to the attention of all Members, section 23 of the Bill which deals with licensing. Section 23(1) reads as follows: "**(1) The Authority may grant licences in accordance with the provisions of this Law.**"

Subsection 2: "**(2) The Authority, by notice published in the Gazette, shall specify the ICT services and ICT networks that are required to be licensed.**"

And Subsection 3: "**(3) Where a licence is required under this Law, no person shall a) establish or operate an ICT network; or b) provide any ICT service; without a current licence in respect of such network or service.**"

Section 74 (1) goes on to repeal the Broadcasting Law, the Radio Law and the Telephone Law. The effect of which will be, that upon passage of this legislation those laws will fall away. The difficulty I have seen with section 23, which deals with the licensing provisions, is that it does not say which licenses are required nor does it say what ICT services and ICT networks require licensing. The intention of this section is that the Authority, by notice, published in the gazette shall specify the ICT services and the ICT networks that are required to be licensed. So, upon passage of the Bill that will not have happened and arguably we will have a situation where there is a lacuna, a period when it is possible to argue that no one requires a licence to operate these particular ICT services.

If the services to be licensed are to be decided upon by the Authority, and then published in the Gazette, that has not happened at the passage of the law of this particular Bill. However, the laws which currently exist to regulate communication, broadcasting, telephone and so on, are repealed as a result of this, there is in effect no provision in any legislation which would then be operative; which would govern the licensing of these various services. So, Madam Speaker, I would draw that to the Honourable Minister's attention because I am certain that it cannot be the intention of the Government to create a legislative loophole that could possibly permit persons to operate an ICT network and provide ICT services without be-

ing required to have a license. I know that is not the intention and that is why I am bringing it to the Honourable Minister's attention, so that a means can be found to plug this loop hole, if he agrees with me that it is such a loop hole, prior to the passage of this Bill.

While I am dealing with this question of licenses, section 75 (3) provides that: **"The Minister may, where the Authority has not been established at the date of the commencement of this Law and until such time as the Board may specify by resolution, have the power to issue any concession, licence or authorisation which the Authority is empowered by this Law to issue; and the Governor in Council may, for such period of time as it shall determine, appoint such persons as it considers necessary to assist the Minister in carrying out such functions."**

So, what the Bill contemplates is that up to the point where the Authority becomes established and able to issue licenses, that the Minister may do so. However, that does not meet the point which I just raised Madam Speaker. In my view, the point is that when we repeal the Broadcasting Law, the Telephone Law the Radio Law, there will be no requirement until the Authority has actually published in the Gazette the ICT services and the ICT networks which are required to be licensed. There will be no requirement for any of these services to be licensed, so there is a void or a lacuna created upon the passage of this Bill. While I am on this point, I truly believe that it is an unsatisfactory situation to give the Minister (and this is a separate point) the responsibility and the authority to issue licenses.

I understand the objective because it is obviously recognised that there is going to be some time before the passage of this Bill and the establishment of the Authority, where the Authority will be in a position to be able to administer effectively the responsibilities that it is given under this particular Bill. It goes against the grain, certainly with me, for the Minister, whoever that Minister may be, to have the ability to issue licenses, concessions and authorisations, which this legislation clearly intends for the Authority to do. I believe, that this particular provision, while I fully understand why it is there, undermines the regulatory framework for licensing, which is the clear intent of the Bill and that is that licensing is a matter within the purview of the Authority, not the Minister. I believe that framework is necessary for very sound reasons.

It is, in my respectful view, to ensure that the granting of licenses does not become politicised and to ensure that the process of the issue of licenses is and is seen to be transparent and politically independent. This pertains not just to Telecommunications Licences but equally as importantly to Broadcasting Licences.

So, I believe that if the Bill is to be passed with this section remaining in it, that it is of critical importance that the Authority is established quickly and is able very soon to be able to assume this very criti-

cal responsibility. Indeed, it is perhaps arguable that we should have had an Authority prepared, if not running, at the passage of this Bill so that immediately upon this Bill becoming law that Authority would become vested with the powers that it is intended it should be vested with under this Law. It should therefore be able to administer the functions and responsibilities which are contemplated under this particular Bill. Again, I bring this to the Honourable Minister's attention.

Section 53—I think the Honourable Minister has recognised that there are some difficulties with this. I recall him alluding to some potential problems with section 53 (1) in particular, when he was introducing the Bill. Section 53 (1) provides that **"Subject to the provisions of subsection (2), a person who intentionally intercepts, alters, replicates, monitors or interrupts any message (whether in whole or in part) during its transmission over an ICT network or by means of an ICT service by any means is guilty of an offence and liable for each such message—"** Following are the fines of \$10 thousand, \$20 thousand et cetera, and imprisonment.

Subsection 2, **"A person shall not be guilty of an offence under this section if- a) the message is intercepted, monitored or interrupted in obedience to a warrant issued by the Governor under section 55;"**

Obviously section 53 (2) (a) would have to be amended and I believe the Honourable Minister has given an indication that he intends to do that at Committee Stage.

- a) the message is required to be intercepted, monitored or interrupted pursuant to a court order;
- b) the person by whom the message is sent or to whom the message is sent has expressly consented to the interception, monitoring or interruption;
- c) the message is intercepted, monitored or interrupted by the Authority for purposes connected with the execution of its functions under this Law;
- d) the message is intercepted, monitored or interrupted solely for the purpose of preserving the technical integrity of an ICT service or ICT network; or
- e) the message is intended to be received by the public".

Now, as I see it, the effect of section 53 (1) would make it an offence for any person, and that, I believe, would include the ICT provider itself, to intentionally intercept, alter, replicate, monitor or interrupt a message. I believe that section, as it stands, is problematic because it is bound to be necessary for service providers to monitor or interrupt message at some time during the transmission to be able to detect or investigate fraud, unauthorised access or unauthorised usage of the ICT service. Indeed, it is also bound to be necessary to be able to maintain the quality of

that particular service or of the ICT network. There will be occasions when intentional interruption by the service provider is necessary to enable them to alter whatever infrastructure they have in place to be able to improve coverage, efficiency, quality, functionality of that particular service.

My reading of the exception (e), which I believe is intended to deal with these sorts of situations where the service provider finds it necessary to interrupt or monitor a message, does not quite go far enough; is not broad enough to cover the kinds of matters which I just referred to. What subsection (2)(e) deals with is the provision that an individual will not be guilty of an offence under this section if the message is interrupted, monitored or intercepted solely for the purpose of preserving the technical integrity of an ICT service or an ICT network. Doing things like upgrading, monitoring, interrupting or intercepting a service so that you can detect whether or not there has been fraud or unauthorised usage of it, I do not believe are covered within that particular exception. I also do not believe that it is the intention of Government to impose a criminal sanction upon a licensee in those circumstances (that is when a licensee interrupts the transmission for the purposes of upgrading or altering its network infrastructure). My reading of the section is that such interruption would amount to an offence against that section. Again, I draw that to the Honourable Minister's attention for consideration and if he is in agreement with me, I believe that the necessary amendments could be made during the Committee Stage of the Bill.

This same section, section 53 (1), on my reading of it, would appear to make it illegal for a licensee to monitor messages on its network in order to detect the various forms of network abuse, such as what is commonly called 'spamming'. Again, I do not believe that could be the intention of that particular legislation. I know that section 67 of the Law does impose criminal sanction on any person who knowingly uses an ICT network or ICT service to defraud, abuse, annoy, threaten or harass any other person, but that is an ability which is limited to prosecution through the court system. Madam Speaker, I believe, as has been the case in many other liberalised jurisdictions, that it should be possible for the telecommunication provider themselves to be able to detect and prevent these various forms of network abuse without falling fowl of the Bill, section 53 (1).

I note that while the Law provides for the licensing of ICT networks or ICT services that the Law itself does not deal with the question of fees, which is not unusual because the fees are usually included in the regulations. However, it would have been preferable if, at this stage, Honourable Members of this House could have been made aware of the proposed fee structure. I am inviting the Honourable Minister to deal with this if he possibly could in his reply in due course.

Those are really the key points which we felt we should draw to the attention of the Honourable House and, in particular, the Honourable Minister, in addition to the points raised by the Elected Member from East End in his very valuable contribution. Again, I can say on behalf of all Members of the Opposition, we have always supported the key objects of this Bill to replace the existing Telephone, Radio and Broadcasting Laws with modern legislation, and to establish an independent regulatory authority to enable the introduction of competition for the provision of ICT services and ICT networks, and to protect the interest of consumers.

As other Members have alluded to, this Bill has been in the offing almost since we were all elected to this Honourable House. It is one of those matters that while Honourable Members may have some differing views on the detail of the legislation, conceptually we are all committed to. Indeed, I believe, even the monopoly (Cable and Wireless) have publicly stated their commitment to the prospect of liberalisation. I believe it is in the overall best interest of these Islands that we do have competition in Information, Communications Technology. I trust that the contribution of the Opposition in this regard will find favour with the Honourable Minister. I can say to him, Madam Speaker, that he has our full support and co-operation in working out whatever quirks that might arise as a result of observations of ourselves or indeed, any other Honourable Member of this House.

I thank you, Madam Speaker.

The Speaker: Thank you. Does any other Member wish to speak?

The Honourable Leader.

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

Before I begin I want to alert Members that we intend to finish the Second Reading debate on this Bill today and to further take the Committee Stages when we come back. We propose to adjourn today and come back week after next. I think it is the 18 March and we would then finish the business on the Order Paper at that time. Some Ministers have to be away on official duty and other Members have to be away for other matters and therefore, we thought it prudent not to try to meet next week.

I rise to support the Bill and specifically to congratulate the Honourable Minister. I know that he has had many headaches on this matter; has put in many, many long hours into the Bill before us. He has worked tirelessly to get to this point. For many years, ever since I have been in this Honourable House, the public has asked to redress when it comes to certain monopolies in the country and this is a step in that direction. The proposed legislation provides for modern Information and Communications Technology services and network to these Islands, something that is very much needed as legislation is outdated, out-

moded and in many instances, do not confirm to the times that we live in. Under this legislation, standards would be set as to the services offered by companies by the public, so it is a protection to the people of these Islands. It makes it possible that complaints against a company would have to be taken seriously.

I find it very, very satisfying indeed, that we can come to this point today - because as I said, ever since being in this legislature, and this is my fifth term, legislators are bombarded with complaints and all we can do is go to some desk of some company and sort of beg for mercy. Under this legislation the complaints would have to be taken seriously. The legislation breaks up the monopoly existing today, and because this Law will be put in place, the Treasury of this country will get more revenue because of expansion through competition. Members have mentioned and named companies and I can say that Cable and Wireless has done a tremendous job over the many years it has existed in this country.

I see the Opposition perking up. I do not know what he wants, but if he has something to say further he should really stand up and say it.

Anyway, that company has performed well and I offer them thanks because many people have received training, benefits and otherwise over the many years. However, it comes a time when we have to do what is best for the country as a whole, and breaking up the monopoly is best for the country.

Members have talked about the Authority; that will come in due course. We hope that they will support it when it comes. We are not here to support any one company and I am not going to talk out of both sides of my mouth. We are here to do what is best for all the people of these Islands because that is whom we represent.

So, this is the work of the United Democratic Party and we thank all those persons who have been involved and has made a contribution to get what I think is a good piece of legislation; modern legislation that any progressive country needs. We can find fault with anything that comes before the House and we can nit pick and pick and pick. What is important is that the Minister carried through on a piece of legislation that is needed, and no matter how much the Opposition say they are constructive, the fact is the United Democratic Party has fulfilled a need.

The Second Elected Member from George Town talked about how responsible they are. I do not know if we can call it that. I hear them putting credit in one pocket and taking it out of the next - on the other side over there, but that is what an Opposition is used to do. Their performance has been atrocious really, in this House, and has been so to the point that they voted against money for schools, for Social Services, for children in need; that is irresponsibility; that is not being constructive. So, we thank them for their *'tongue in cheek'* support. I believe that the country will be much better with the legislation. It is a good

modern piece of legislative work and I congratulate the Minister. Thank you.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? If not, would the Honourable Minister wish to exercise his right of reply?

Hon. Linford A. Pierson: Thank you, Madam Speaker.

First I wish to thank all Honourable Members who spoke on this Bill; all of whom have given their support to the Bill. I want to thank particularly the Member for East End for the detailed summary he gave of the Bill. I wondered for a minute whether he was not somewhat connected with Cable and Wireless but I know that is not the case. *[laughter]* However, I must say that the points he raised were some valid points. Also it is the intention, as can be seen, by the committee stage amendments that some of the points he made will be incorporated into the Bill during the Committee Stage.

I also thank the Second Elected Member for Cayman Brac and Little Cayman. I was particularly grateful to him for raising the point in regard to the advent of the Brac Informatic Centre. He is correct in stating that the Brac Informatic Centre promises to boost the economy of the Brac. It is necessary to have in place this legislation because it is under this legislation that the necessary agreement between the Brac Informatic Centre and Government will be drawn up. There is no question that it is hoped and expected that the telecommunications costs will be reduced as a result of possible competition following liberalisation. Also to congratulate the owners and operators of the Brac Informatic Centre who are all Caymanians, or more specifically, Brackers.

I will come back to the points raised by the Honourable Member for East End. I want to sincerely thank the Fourth Elected Member for West Bay for his kind remarks and the points which he raised during his contribution. I also want to thank him for the sterling job he did as Chairman of the Telecommunication Advisory Committee. Indeed, it was through that committee that we were able to tackle some of the very technical issues in regards to the Telecommunications Bill.

This morning during the presentation of the Bill I did in fact, thank all the individuals who had been involved. Madam Speaker, I would be remised if I did not make a special mention of the gentleman who has taken this Bill from the initial stages to where we are now and who I expect will carry it through even when we have an ICT Authority established. That gentleman is Mr. Dave Archibald who is the Director of the Information Telecommunication Strategy Unit. I want to thank him most sincerely because he has worked very long and tireless hours at bringing this to the point where it is at present.

The Honourable Minister responsible for Health Services, District Administration and Agriculture, my gracious thanks to him for his support. He has been a very strong colleague on the Executive Council and otherwise, even when he was on the Back Bench he offered some very, very good suggestions to this Honourable House and I want to thank him for the support that he has given on this piece of legislation. I was most touched when he mentioned that today is an historical moment and this is indeed true.

I want to thank all Honourable Members; those who have spoken on this Bill, and through their tacit support have given their approval. Also the Second Elected Member for George Town for his support on this Bill. He has raised a number of very interesting points in regard to the point he made under section 53(1). I would just like to make a comment that it is the view - and I have not yet discussed this with my Legislative Colleagues, but it is the view that service providers should not have the discretion to interrupt a transmission due mainly to a perception or a belief that a criminal offence has been committed. This indeed must be the work for the Police and the Police to the Governor who has the power under the Constitution to provide the necessary authority for this matter to be investigated, as the person with the reserve powers for the national security of these Islands. However, in regards to 53 (1)(e) I believe that provision is already there to protect service providers in respect of technical and other similar difficulties which they may experience. We have another chance to deal with this and in Committee Stage this matter can be further discussed.

In regards to the comments made by the Elected Member for East End, in his support for this Bill, I want to thank him again for his remarks. He expressed the hope that Government would accept his comments as being constructive, and indeed we do, in most of them. The first point raised by the Honourable Member concerned is the possible relationship between a Utilities Commission and the ICT Authority. As he is aware my Ministry has only recently assumed responsibility for CUC and water is the responsibility for my Honourable colleague the Minister for Community Services, Youth and Women's Affairs. I therefore, cannot yet give a definitive answer on this particular point to the Honourable Member.

There are certainly a number of possibilities that we can consider. There may be sufficient similarity between the roles of the ICT Authority and the Public Utilities Commission for the two functions to be combined. On the other hand, the required specialist expertise might be sufficiently different for the two organisations to co-exist; it is too early to say. In the short term there is no doubt that the ICT Authority will be fully occupied dealing with telecommunications and it would be a mistake to distract them by giving them responsibility for the regulation of other business sectors.

The Elected Member for East End then referred to a number of clauses in the Bill where the term 'Governor' is used and he felt that 'Governor in Council' would be more appropriate. They are as follows:

In clause 17 concerning the repayment of advances there are two references to 'Governor' and we agree that both should be amended to read 'Governor in Council'.

The references to 'Governor' in clause 31(2), 32(2) and 33(2) concerning modification, suspension and revocation of licenses for reasons of security of the Islands are correct as security of the Islands is a reserved power of the Governor.

We also believe that it is appropriate for these provisions to be spelt out in the law so that potential, new ICT Network and Service Providers clearly understand the position. I have already intimated that I would be bringing an amendment to delete clause 55.

There will be the following consequential amendments to clauses 53(2) and 54(3).

Clause 53(2) a), should be amended to read: 'the message is intercepted, monitored or interrupted in obedience to a warrant or other order issued by the Governor'. Again, he would be the person responsible for this under his reserved power under the Constitution.

Clause 53(2) (b) should be deleted.

Clause 53(2) will then be renumbered.

Clause 54(3) (e) should be amended to read: 'any disclosure which is made in obedience to a warrant or order issued by the Governor.'

In clause 70 (1), it is agreed that the word 'Governor' should be replaced by 'Governor in Council'. In addition it is proposed to amend clause 70 (1) (b) to delete the words 'authorising or', as 'authorising the bringing of, criminal proceedings' which is clearly the responsibility of the Honourable Attorney General who is the Second Official Member of this Government.

As I have already intimated, clause 76 is the subject of a committee stage amendment. This amendment will resolve the issue raised by the Honourable Member from East End concerning the existing references to Governor in sub-clauses 1 and 2 of the current version.

Turning now to the Member's other comments (the Member for East End) when he raised the issue of the temporary powers given to the Minister in clause 76(3), to issue licences until the ICT Authority is fully established. This matter was also commented on by the Second Elected Member for George Town. As I explained in my earlier remarks, this is necessary so that essential licences, such as those issues for radios in ships and aircraft, can continue to be processed. As a matter of fact I do this at present, but these matters are taken to Executive Council for approval and will be continued to be done in that manner. These functions are currently performed, as I said, by my Ministry and so the provision merely al-

lows the current arrangements to continue until the Board of the ICT Authority confirms that it is ready to take over.

It is Government's intention that the ICT Authority should be established as quickly as possible. However, it is clearly impractical for them to be fully operational on the day that the new Law is passed. It should also be noted that the decision on when the Authority is ready to assume these responsibilities has been given to the Board of the Authority, not to the Ministry.

I believe the Honourable Member from East End may have misunderstood the provisions on universal service. If and when these provisions have been brought into effect it is indeed the intent that all providers in the same category should be treated equally. I believe his concerns will be fully alleviated once the categories are published by the Authority. The Honourable Member also made reference to the many different types of ICT Networks and Service Providers that will be licensed under this Law. We should be clear that the form and content of such licences will be quite different for each type.

The Member for East End could not find references to fees for the renewal of licences. This is covered satisfactorily in clauses 26(1) and 30.

Clause 28 refers to a maximum term for a licence and there may indeed be circumstances where the level of investment required justifies this length of licence. In response to his concerns, I would point out that non exclusive licences do not prevent other companies with newer technology from being licensed, and that if a licensee is not fulfilling the terms of his license, the Authority has the power to suspend or revoke that license at any time.

In clause 45 (5), I accept the Honourable Member's suggestion that the imposition of an interconnection rate should be a decision of Executive Council rather than the Minister and I propose such an amendment.

The details of the register of applications and licences mentioned in clause 34 will be specified and regulations prepared by the Authority. The intention is to be as transparent as possible.

The Elected Member for East End's observation concerning clause 35 about appeals against the decisions of the Authority with respect to cease and desist orders, I agree that it would be preferable to make specific provision for appeal to the court rather than depend upon judicial review. I therefore propose that clause 57 be amended to include a decision following review of the cease and desist orders.

Finally, with respect to clause 44 and refusal to provide interconnection, I would point out that the opening words of this clause are subject to the provisions of this section. I believe this answers the Honourable Member's concerns.

There will have to be certain consequential amendments to the numbering of some of the clauses due to the amendments that have been made, and in

the usual fashion in committee stage, I am sure as Chairman you will no doubt invite the Second Official Member to act accordingly.

On the question of definitions the Member for East End had a concern about the difference between the meaning of deregulation and liberalisation. I can only say that a very short definition that I have come up with might satisfy his concern. Deregulation is the removal of regulations and restrictions. The result of which is liberalisation and this in turn leads to the introduction of competition.

I wish to also emphasise that transitional arrangements do not result in an automatic termination of the Cable and Wireless contract, but allow this to happen as soon as negotiations have been completed and that is spelt out also in the Bill.

As mentioned earlier there are 3 committee stage amendments. These have been circulated to Honourable Members.

I also take note that the Honourable Second Elected Member for George Town had raised a problem with clause 23, which he stated, poses some difficulty as it does not say which licenses or what ICT Network Services require licensing. This matter will certainly be given further attention, in particular during the committee stage of the Bill.

The Speaker: Honourable Minister we have reached the hour of interruption. If it is your intention to shortly conclude I will exercise my discretion not to have the interruption motion at this time but to allow you to continue.

Hon. Linford A. Pierson: Yes, Madam Speaker, I should be through in five minutes.

The Speaker: Please continue.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

I would just like to quickly run through the notice of the committee stage amendment. It states that clause 76 be numbered as clause 75 and that such clause be amended by deleting sub-clauses 1 and 2 and by substituting the following: 75(1) any licenses or other enabling instruments issued to any person to provide any aspects of ICT Services or ICT Networks in the Islands in which are valid immediately before the commencement of this Law, shall continue to remain enforced and in effect and shall authorise the continued ownership and operation of the ICT Services and ICT Networks provided under such licenses or enabling instruments until 31 December 2002 or such later date as the Governor in Council may specify by notice published in the Gazette, and that clause 76 (now clause 75) be renumbered accordingly.

These other two Bills are somewhat lengthy. They have been circulated to Honourable Members and they will have sufficient time to study these. As I understand it, it is not the intention to deal with this

until we return in a weeks' time, which will be on the 18 March.

I wish to thank you and all Honourable Members for their support of this most important Bill. Thank you.

The Speaker: Thank you, Honourable Minister. The question is that a bill shortly entitled the Information and Communications Technology Authority Bill 2002, be given a second reading. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Information and Communications Technology Authority Bill 2002 has been given a second reading.

The Speaker: I will now call upon the Honourable Leader of Government Business to move the motion for the adjournment.

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, we move the adjournment of this Honourable House until 10 am Monday, 18 March 2002.

The Speaker: Thank you, the question is that the Honourable House do now adjourn until Monday, 18 March 2002 at 10 am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. The Honourable House now stands adjourn until 18 March 2002 at 10 am.

At 4.36 pm the House stood adjourned until Monday, 18 March 2002, at 10.00 am.

OFFICIAL HANSARD REPORT**MONDAY****18 MARCH 2002**

10.30 AM

Twelfth Sitting

The Speaker: I would invite the First Official Member to say prayers. The Elected Member from Cayman Brac was to say it but he is presently escorting His Excellency, the Governor.

to acknowledge and welcome the presence of His Excellency the Governor, Mr. Peter Smith.

PRAYERS

Hon. James M. Ryan: Let us pray:

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

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

Let us say the Lord's Prayer together:

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

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

Proceedings resumed at 10.33 am

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

The Speaker: Please be seated.

[pause]

Honourable Members I rise now on this sad occasion to pay tribute to the late Honourable Captain Mabry Kirkconnell, but before so doing, I should wish

**OBITUARY AND OTHER
CEREMONIAL SPEECHES**

Obituary

Captain Mabry Kirkconnell, OBE, JP

The Speaker: Honourable Members by now you would have all heard of the sudden passing of the late Honourable Captain Mabry Kirkconnell—our friend, our colleague and past Speaker of this Honourable House. Captain Mabry was a man who, in my view, pressed towards the mark for the prize of the high calling of God in Christ Jesus, and now that death; man's final enemy has come, Captain Mabry can surely say: 'Oh death where is thy sting; oh grave where is thy victory'. I believe that Captain Mabry would have also related to the words penned by Lord Alfred Tennyson in his poem: '*Crossing At the Bar*' which reads:

**“Sunset and Evening star,
One clear call for me!
And may there be no moaning of the bar,
When I put out to sea,
But such a tide as moving seems asleep,
Too full for sound and foam,
When that which drew out
From the boundless deep
Turns again home.
Twilight and evening bell,
And after that the dark!
And may there be no sadness of
farewell when I embark;
For, thought from out our bourne
of time and place
The flood may bear me far,
I hope to see my Pilot face to face
When I have crossed the bar.”**

Captain Mabry was first elected in 1980 as a representative of Cayman Brac and Little Cayman and served in this capacity until November 2000. In 1986 he took on the additional functions of the high office of Speaker for this Parliament and continued doing so until his retirement on the 14 November last year. In November 1996, the beloved people of Cayman Brac and Little Cayman gave the late Captain Mabry and me, the distinctive honour of being their representa-

tives and that afforded me with an opportunity to work professionally with him.

During his term of service we had an opportunity to have many discussions, negotiations, private talks, dreams, and we shared many stories of how the Brac and Little Cayman experienced many political and economic battles, yet somehow survived. So many times we took the flight together to and from the Brac in order to serve our people. At times when the flight was late and we were weary from a long adversarial day in Parliament, it was not unusual for us to catch a quick nod in the quiet corner of the Airport or to be greatly disappointed when a flight was cancelled, which left us feeling cheated because we would not be able to spend a planned weekend in our constituency, with our people in the Brac and Little Cayman.

As fate would have it, I went to the Brac a few weeks ago for a couple of hours to make a dental appointment, and after completing that appointment I learned that Captain Mabry was quite ill at the Faith Hospital. He was scheduled to leave the Brac that afternoon on Air Ambulance to Florida, in order to seek desperate medical attention. I immediately walked across to the Hospital to visit Captain Mabry. The Doctor on duty said that I could have but a quick visit because he was very tired and needed to rest before embarking on a journey to Florida. I am indeed grateful to Dr. Grant for allowing me that opportunity to spend a quiet moment with Captain Mabry. Since hearing of his death the memories that afternoon have played and replayed in my mind ever so vividly. I can almost see him now in response to his wife telling him that I was there, slowly coming out of the bathroom combing his hair, holding his bath robe securely, as it was always important for him to put the best foot forward. He made his way to the bed and slowly sat down and we exchanged greetings. When I was ready to leave I joined hands with Captain Mabry and his dear wife, Marilyn, and prayed with them. We hugged, I kissed him on the forehead and said goodbye. Little did I know then that that occasion would be the last moments that we would share together as friends, as Brackers and as colleagues. I thank Almighty God for affording me that wonderful experience and opportunity.

Captain Mabry, has no doubt by his way of life, shared many instructions on life with all of us here in this Honourable House. Yes, I believe that he would have also related to the dilemma instructions of life, and so I read:

- 1) Take into account that great love and great achievements involve great risk.
- 2) When you lose, do not lose the lesson.
- 3) Follow the three Rs – respect for self; respect for others; responsibility for all your actions.
- 4) Remembering that not getting what you want is sometimes a wonderful stroke of luck.

- 5) Do not let a little dispute injure a great relationship.
- 6) When you realise that you have made a mistake take immediate steps to correct it.
- 7) Spend some time alone everyday.
- 8) Open your arms to change but do not let go of your values.
- 9) Remember that silence is sometimes the best answer.
- 10) Live a good honourable life that when you get older and have some time to think back you will be able to enjoy it a second time.
- 11) A loving atmosphere in your home is the foundation for your life.
- 12) In disagreements with loved ones deal only with the current situation and do not bring up the past.
- 13) Share your knowledge. It is the way to achieve immortality.
- 14) Once a year, go some place that you have never been before and remember that the best relationship is one in which your love for others exceeds your need for each other.
- 15) Judge your success by what you had to give up, in order to get it.

On behalf of all Honourable Members of this Legislative Assembly, I wish now to convey the words of the poet, Emily Matthew to Mrs. Marilyn Kirkconnell and the other members of the family of the late Honourable Captain Mabry Kirkconnell:

**“As You Face This Challenge
Listen for God’s Voice,
When you face this challenge
Or you need to make a choice,
Just say a prayer to God
Above and listen to His voice.
The voice of God that gives us
Hope and guides us through the days,
Is still small and comes to us
In countless different ways.
It may be in a song we have heard
A hundred times or more,
Or in a smile from someone
Whom we have never seen before;
It may be in sunshines warm
Or in a work of art,
But most of all and perhaps best of all,
We feel it in our hearts”.**

We here in the Cayman Islands Parliament hope that God will especially be close to all of his family during this time and that he will give them all the answers they need just now.

As virtuous men pass mildly away and whisper to their souls to go, so let us melt and make no noise, no tear floods nor size tempest move.

I now call on each Honourable Member to rise with me as we observe a moment of silence to show

our love and respect for the late Honourable Captain Mabry Kirkconnell.

[Moment of silence]

The Speaker: Thank you. As I understand it Honourable Members, tomorrow the late Honourable Captain Mabry would have been celebrating his 71st birthday. At this time I would like to light a scented candle in his memory and would ask that the Serjeant-at-Arms ensures that each morning the candle is rekindled until it burns out. As the sweet smelling aroma rises in this Parliament may we reflect on the time spent together with our colleague and friend. May we all work together towards receiving a crown of righteousness and celestial eternal life when we come to cross our bar. May his soul rest in peace.

Please be seated. I have also been asked by a member of the staff namely, Mrs. Tania Connolly, to read the following tribute:

“TO ONE WHO WILL LONG BE REMEMBERED

This morning my thoughts and prayers are with the loved ones of Captain Mabry Kirkconnell—especially his wife, Mrs. Marilyn Kirkconnell and adopted daughter, Otellia. I trust that they will draw comfort from cherished memories. May God who always knows best give them the strength they need to cope with their loss.

Captain Mabry was a man I held in high esteem. I found him to be a very kind man, a wise man, a Christian man and a gentleman in every sense of the word. He certainly made a deep impression on my mind and I, along with many other persons, will miss him greatly. May his soul rest in peace”.

I should also wish to seek the permission of all Honourable Members for their approval for me to present and to give to the wife of the late Captain Mabry Kirkconnell the ceremonial robe and wig. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. I shall do so on your behalf.

Honourable Leader of Government Business perhaps we should take a suspension at this time.

Agreed: Speaker’s ceremonial wig and robe to be presented to Mrs. Kirkconnell

Hon. W. McKeeva Bush: Yes, Madam Speaker, we propose to take a break at this time so that this Honourable Legislature can receive the Constitutional report brought here by His Excellency the Governor. We propose to meet with him and we propose to return after that meeting.

The Speaker: The House will be accordingly suspended. I should not give a time except to say until the meeting has concluded with his Excellency and all Honourable Members.

Proceedings suspended at 10.46 am

Proceedings resumed at 11.45 am

The Speaker: Please be seated.

**PRESENTATION OF PAPERS
AND OF REPORTS**

Constitutional Commissioners Report

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Madam Speaker, I beg to lay on the Table of this Honourable House the Report of The Constitutional Commissioners on the review of the Cayman Islands Constitution commissioned by His Excellency the Governor on 15 June 2001.

The Speaker: So ordered.

Does the Honourable First Official Member wish to speak thereto?

Hon. James M. Ryan: No, Madam Speaker.

The Speaker: Thank you.

Honourable Leader of Government Business.

**Motion to Defer Debate on the Constitutional
Commissioners Report**

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

As agreed by all Honourable Members of this House, I will move that the Report of the Constitutional Modernisation Review be debated and, if agreed upon, adopted on 15 April 2002. Madam Speaker, I will give notice that at that time I will formally move the Motion.

The Speaker: Honourable Leader, is it the intention for the questioning to be put when you formally move the Motion for the substantive and to put the deferral at this time?

Hon. W. McKeeva Bush: Yes, Madam Speaker.

The Speaker: The question is that the debate on the Constitutional Report be deferred and, if approved, for adoption on the 15 April 2002.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: That the debate on the Constitutional Commissioners Report be deferred and, if agreed upon, adopted on 15 April 2002.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

IMB Audit Consultants

The Speaker: I now call upon the Honourable Minister responsible for Education.

Hon. Roy Bodden: Thank you, Madam Speaker.

What I have this morning is not so much a statement as it is an invitation to all Honourable Members. Madam Speaker, you and all other Honourable Members might recall me making a statement earlier that it was the intention of the Ministry of Education to pursue an Information and Communications Technology audit with IBM. I am happy to report this morning that for several days now the IBM team has been in the Cayman Islands and has been conducting this audit. I have extended an invitation to Mr. Bob Gin and other team members to meet with Honourable Members today at 2 o'clock in the Committee room and I have received permission from you, Madam Speaker, for us to use this time and the facilities to so do.

I am extending this invitation now formally to all Honourable Members to join us in the Committee room at 2 o'clock this afternoon. At that time Honourable Members can meet the members of the technical audit team and the consultants from IBM when they have arrived here to pay a courtesy call on us, the Members of the Legislative Assembly. I thank you kindly, Madam Speaker, and my sincere invitation is extended to all Honourable Members.

The Speaker: Thank you, Honourable Minister.

GOVERNMENT BUSINESS

BILLS

The Speaker: The House will now resolve itself into Committee during the transition the Deputy Speaker will enter the Chamber and chair the Committee for myself.

House in Committee at 11.52 am

COMMITTEE ON BILLS

[Deputy Speaker in the Chair]

The Chairman: The House is now in Committee. With the leave of the House may I assume that, as usual, we should authorise the Honourable Second Official Member to correct minor errors and such the like in these Bills? Would the Clerk please state the Bills and read the clauses.

The Parliamentary Pensions (Amendment) Bill, 2002

Clause 1 – 3

The Clerk:

Clause 1	Short title
Clause 2	Amendment of section 2 of the Parliamentary Pension's Law 1995 Revision—Definitions
Clause 3	Amendment of section 4—Rate of Pension

The Chairman: The question is that clauses 1 through 3 stand part of the Bill. If there is no debate I will put the question.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

Clause 4

The Clerk: Clause 4 Insertion of section 8(a)—Speaker's Pension

The Chairman: I will call on the Third Official Member who has an amendment.

Hon. George A. McCarthy: Mr. Chairman, in accordance with the provisions of Standing Order 52(1) and (2), I give notice to move the following amendments to the Parliamentary Pensions (Amendment) Bill 2002: That clause 4 of the Bill be amended in the new section 8(a) proposed for insertion in the principal Law as follows: in subsection (1)(c) (i) and (ii), respectively, by deleting the words "sixty years" and substituting the words "fifty-five years"; and in subsection (4) by deleting the words "sixty years" wheresoever they appear and substituting the words "fifty-five years".

Thank you, Mr. Chairman.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stands part of the clause. All those in favour, please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it. The amendment stands part of the clause.

Agreed: Amendment passed.

The Chairman: The question is that the clauses, as amended, stand part of the Bill. If there is no debate, all those in favour, please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 4 as amended passed.

Clauses 5 – 7

The Clerk:

Clause 5	Repeal and substitution of section 9— Inflation Protection
Clause 6	Amendment of section 12—Pensions not assignable
Clause 7	Amendment of section 13—Total Cumula- tive Pension

The Chairman: The question is that clauses 5 to 7 do stand part of the Bill. If there is no debate I now put the question that clauses 5 to 7 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 5 through 7 passed.

The Clerk: A Bill for a Law to Amend the Parliamentary's Pensions Law 1995 Revision to Make Provision for the Payment of a Pension In Respect of the Office of Speaker of the Legislative Assembly and to Make Provision for Related Matters.

The Chairman: The question is that the Title stand part of the Bill. If there is no debate I will now put the question. All those in favour, please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Immigration (Amendment) (Immigration Appeals Tribunal) Bill, 2002

Clauses 1 – 2

The Clerk:

Clause 1	Short title
Clause 2	Amendment of section 2 of the Immigra- tion Law 2001—Revision Definitions and Interpretation.

The Chairman: If no Member wishes to speak I will now put the question. The question is that clauses 1 and 2 stand part of the Bill. All those in favour, please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 2 passed.

Clause 3

The Clerk: Clause 3 Insertion of new sections—
Immigrations Appeals Tribunal.

The Chairman: I would like to call on the First Official Member who has an amendment.

Hon. James M. Ryan: Mr. Chairman, in accordance with the provisions of Standing Order 52(1) and (2), I, the First Official Member, give notice that I intend to move the following committee stage amendments to the Immigration (Amendment) (Immigration Appeals Tribunal) Bill 2002: That clause 3 be amended by inserting in section 10A (1) after the words "consists of", the words "the following members".

Mr. Chairman, shall I deal with the rest of the committee stage amendments now or shall I leave those until later?

Ms. Edna M. Moyle: Mr. Chairman, for clarification. I would think that this should have been done at the second reading that we would have been given notice and we would have had copies of the various amendments. I have not seen the amendments. Could we have copies of those amendments? To give notice at this stage is a bit late.

The Chairman: Your objection is noted. According to the Clerk the information is that the amendments were actually circulated on the 27th day of February. I am sure we can arrange to get you a copy of the amendments.

The Honourable First Official Member, we would appreciate if you would do the clauses as we call them. So, we will move on and when we call that clause you can do that proposed amendment.

Hon. James M. Ryan: Thank you, Mr. Chairman.

The Chairman: There seems to be a question as to whether or not there were two amendments or one that was circulated. Some of the Members are saying that they have the amendment to clause 5 but not of clause 3. Our information as here shows that they were both done together.

Hon. James M. Ryan: Mr. Chairman, they were both done together and I have a copy that is proofed by the Speaker on the 21st.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? If no Member wishes to speak, the question is that the amendment do stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to Clause 3 passed.

The Chairman: The question is now, that clause 3 as amended, do stand part of the Bill. If no Member wishes to speak I will now put the question that clause 3 as amended do stand part of the Bill. All those in favour, please say Aye. Those against, No.

Ayes.

Agreed: Clause 3 as amended passed.

The Clerk: Clause 4 Repeal of section 12 and substitution—Appeal from decision of the Board.

The Chairman: The question is that clause 4 stand part of the Bill. If no Member wishes to speak I will now put the question that clause 4 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 4 passed.

The Clerk: Clause 5 Amendments of section 13—Conduct of Appeal.

The Chairman: I call on the First Official Member for the amendment.

Hon. James M. Ryan: Mr. Chairman, in accordance with Standing Order 52 (1) and (2), I move the following amendment to clause 5 that it be amended as follows: By repealing paragraph (b) and substituting the following- “(b) by repealing subsection (2) and

substituting the following- “(2) On receipt of the notice of appeal, the Appellate Tribunal shall-

- (a) notify the immigration officer or the Board, as the case may be, of the decision against which the appeal is made and the grounds of the appeal and give the immigration officer or the Board twenty-eight days or such longer period as the chairman of the Appellate Tribunal may, for good cause shown, allow, to provide a written defence to the appeal; and
- (b) if the appellant has applied to be heard personally or by a representative, fix a time and a date for such hearing and notify the appellant and, as the case may be, the immigration officer or the Board thereof.”

And by inserting the following as paragraph (c) – “(c) in subsection (3), by repealing the words “if called upon by the Appellate Tribunal in that behalf.”

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? If no Member wishes to speak the question is that the amendment stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to Clause 5 passed.

The Chairman: The question is that the clause, as amended, stand part of the Bill. All those in favour, please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 5 as amended passed.

The Clerk:

Clause 6	Insertion of new section—Decisions of the Immigration Appeals Tribunal
Clause 7	Amendment of section 14—Decisions to be administrator
Clause 8	insertion of new section—Rules relating to appeals.
Clause 9	Amendment of section 17—Acquisition of Caymanian status by grant.
Clause 10	Amendment of section 20—Loss of Caymanian status.

The Chairman: The question is that clauses 6 to 10 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 6 through 10 passed.

Clauses 11 – 14

The Clerk:

- Clause 11 Amendment of section 33—Grant, et cetera of work permit.
- Clause 12 Amendment of section 37—Offence to engage in gainful occupation or to employ persons in contravention of this part.
- Clause 13 Amendment of section 76—Directions to board and chief immigration officer
- Clause 14 Amendment of section 77—Power to put questions and require production of documents.

The Chairman: The question is that clauses 11 to 14 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 11 through 14 passed.

The Clerk: A Bill for a Law to Amend The Immigration Law (2001 Revision) In Order to Provide for the Establishment Of an Immigration Appeals Tribunal and for Incidental and Connected Purposes.

The Chairman: The question is that the Title does stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Animals (Amendment) Bill, 2002

Clause 1

The Clerk: Clause 1 Short title

The Chairman: The question is that clause 1 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 1 passed.

Clause 2

The Clerk: Clause 2 Amendment of section 2 of the Animals Law (1999 Revision)—Definitions.

The Chairman: The Minister for Health and Agriculture.

Hon. Gilbert A. McLean: Thank you, Mr. Chairman.

In accordance with the provisions of Standing Order 52(1) and (2), I, the Minister responsible for the Ministry of Health Services, District Administration and Agriculture give notice that I intend to move the following committee stage amendments to The Animal (Amendment) Bill 2002: Clause 2 be amended by inserting the following definition in its appropriate alphabetical order- “pet animal” means an animal kept for companionship or amusement”.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? If no Member wishes to speak the question is that the amendment stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to Clause 2 passed.

The Chairman: The question is that the clause as amended stand part of the Bill. Those in favour please say Aye. Those against, No.

Aye.

Agreed: Clause 2 as amended passed.

Clause 3

The Clerk: Clause 3 Repeal of part 5 and substitution—Licensing of dogs.

The Chairman: I call on the Minister responsible for Health and Agriculture.

Hon. Gilbert A. McLean: Mr. Chairman, in clause 3 I beg to move that the following amendments be made: Section 24(1) by inserting after the word “dog” where it first appears, the words “over the age of four months”;

Section 24(4) by inserting after the word “dog” the words “under the age of four months”;

Section 25(5) by inserting after the word “licence” the words “and the appropriate fee”;

Section 28 by inserting after the word “licence” where it appears at the end, the words “and the fees for such identification tags”.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? If no Member wishes to speak the question is that the amendment do stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to Clause 3 passed.

The Chairman: The question is that clause 3 as amended do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 3 as amended passed.

Clause 4

The Clerk: Clause 4 Insertion of new part—Licensed operations.

The Chairman: The Honourable Minister for Health and Agriculture.

Hon. Gilbert A. McLean: Mr. Chairman, under Standing Order 52(1) and (2) I wish to move the following amendment to clause 4 by amending section 28A (1)— by inserting in paragraphs (a), (b) and (c) the word “pet” before the word “animals”.

The Chairman: Honourable Minister you have another amendment for inserting a new paragraph (e). Would you like to do that at the same time for 28A?

Hon. Gilbert A. McLean: Thank you, Mr. Chairman. Also, in clause 4 of The Animals (Amendment) Bill 2000, I beg to move the amendment in the proposed section 28A (1) as follows— by inserting a semi-colon at the end of paragraph (d) and by adding the following new paragraph (e)- “(e) keep animals for public display,”.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak, the question is that the amendment do stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to Clause 4 passed.

The Chairman: The question is that clause 4 as amended stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 4 as amended passed.

Clause 5

The Clerk: Clause 5 Repeal of section 37 and substitution—Dangerous dogs.

The Chairman: The Honourable Minister for Health and Agriculture.

Hon. Gilbert A. McLean: Mr. Chairman, I beg to move the amendment to clause 5 by amending—in proposed section 37D by inserting after the words “public officer” the words “or a security guard in uniform”; and in proposed section 37E by deleting the words “in Council” wherever they appear in that section.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to Clause 5 passed.

The Chairman: The question is that clause 5 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 5 as amended passed.

Clause 6 – 8

The Clerk:

Clause 6 Insertion of new sections—Keeping dogs under proper control; prohibited dogs.

Clause 7 Amendment of section 55—Sale of unclaimed impounded animals.

Clause 8 Insertion of new part—Animal Welfare Advisory Committee.

The Chairman: The question is that clauses 6 to 8 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 6 through 8 passed.**Clause 9**

The Clerk: Clause 9 Repeal of section 58 and substitution—cruelty to animals.

The Chairman: The Honourable Minister for Health and Agriculture.

Hon. Gilbert A. McLean: Mr. Chairman, I beg to move under Standing Order 52(1) and (2) the amendment to clause 9 by amending section 58 (3) (a): -by inserting after the word "water" the words "and food".

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak, the question is that the amendment stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to Clause 9 passed.

The Chairman: The question is that clause 9 as amended do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 9 as amended passed.**Clauses 10 – 16****The Clerk:**

Clause 10	Amendment of section 55- Owner may be deprived of ownership of animal.
Clause 11	Repeal of section 72 and substitution- Animal welfare officer.
Clause 12	Repeal of section 73 and substitution- powers of animal welfare officer.
Clause 13	Amendment of section 74- game wardens
Clause 14	Repeal of section 75- power to search
Clause 15	Amendment of section 79- penalty
Clause 16	Amendment of section 81- penalty for general offence

The Chairman: The question is that clauses 10 to 16 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 10 through 16 passed.**Insertion of New Clause**

Hon. Gilbert A. McLean: Mr. Chairman, under Standing Order 52(1) and (2) I beg to move that there be the insertion of a new clause 17 that the Bill be amended by inserting the following new Clause 17— "Repeals. 17. Section 21 of the Miscellaneous Provisions (Fees and Duties) (Temporary) Law 1997 is repealed."

The Clerk: New Clause 17 Repeals

The Chairman: The Clause has been deemed to have been read a first time. The question is that the clause be read a second time. If there is no debate I will put the question. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: New Clause read a second time.

The Chairman: The question is that this clause be added to the Bill as clause 17. All those in favour please say Aye. Those against, No.

Agreed: That the New Clause be added to the Bill as Clause No. 17. New Clause 17 passed.

The Clerk: The Animals Law (1999 Revision). To provide for the licensing of dogs, the regulations of dangerous and prohibited dogs, the establishment of an animal welfare advisory committee, the appointment of animal welfare officers; and for incidental and connected purposes.

The Chairman: The question is that the Title does stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.**The Information and Communications Technology Authority Bill, 2002****Clause 1**

The Clerk: Clause 1 Short title and commencement

The Chairman: The Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Chairman, in accordance with the provisions of Standing Orders 52(1)

and (2) I beg to give notice that I intend to move the following committee stage amendments to the Information and Communication Technology Authority Bill 2002 that clause 1 of the Bill be amended as follows:—by deleting subclause (2) of the Bill and substituting the following—“(2) This Law shall come into force on such date as may be appointed by order made by the Governor in Council.”

And by inserting the following subclause—“(3) Notwithstanding subsection (1), sections 38 to 43 may come into force after the other provisions of this Law on such date as may be appointed by order made by the Governor in Council.”

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment do stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it. Amendments passed.

Agreed: Amendment to Clause 1 passed.

The Chairman: The question that clause 1 as amended stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 1 as amended passed.

Clause 2

The Clerk: Clause 2 Definitions

The Chairman: The Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Chairman, in accordance with Standing Order 52(1) and (2) I beg to move that clause 2 of the Bill be amended as follows:—by inserting at the end of the definition of “Administrative Point of Contact” the words “or any other such entity being entities as are prescribed in regulations made under this Law”; and by inserting the following definition in its appropriate alphabetical order—“‘Technical Point of Contact’ means the person fulfilling the duties of the technical manager of a specified Internet Domain in accordance with rules and procedures published by the Internet Assigned Numbers Authority or the Internet Corporation for Assigned Names and Numbers or any other such entity being entities as are prescribed in regulations made under this Law.”

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to Clause 2 passed.

The Chairman: The question is that clause 2 as amended stand part of the Bill. All those in favour please say Aye. Those against, No.

Agreed: Clause 2 as amended passed.

Clauses 3 – 8

The Clerk:

Clause 3	The establishment of the Authority
Clause 4	Board of directors
Clause 5	Appointment of directors
Clause 6	Managing director of Authority
Clause 7	Resignation of directors and termination of office
Clause 8	Procedure of the Board

The Chairman: The question is that clauses 3 to 8 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 3 through 8 passed.

Clause 9

The Clerk: Clause 9 Powers and functions of the Authority

The Chairman: The Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Chairman, I beg to move that clause 9(3)(i) of the Bill be deleted and the following substituted—“(i) to be the sole person appointed under this Law to be the Administrative Point of Contact and the only person responsible for the management and control of the top level of the global Internet Domain Name system held in trust for the Internet and the Islands”

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

The Second Official Member.

Hon. David F. Ballantyne: Mr. Chairman, I think the reference should in fact be 9(3) (i) rather than 9 (3) (1), just for the sake of clarity. Thank you.

The Chairman: Thank you, Honourable Member.

Hon. Linford A. Pierson: Mr. Chairman, I totally concur with the Second Official Member.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it. Amendment passed.

Agreed: Amendment to Clause 9 passed.

The Chairman: The question is that clause 9 as amended do stand part of the Bill. All those in favour please say Aye. Those against, No.

Agreed: Clause 9 as amended passed.

Clause 10 – 16

The Clerk:

Clause 10	Additional powers of the Authority
Clause 11	Directions by the Minister
Clause 12	Financial year
Clause 13	Repayment of set up loan
Clause 14	Financial procedure
Clause 15	Borrowing powers
Clause 16	Advances, grants and guarantees.

The Chairman: The question is that clauses 10 – 16 do stand part of the Bill. Those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Clause 10 through 16 passed.

Clause 17

The Clerk: Clause 17 Repayment of advances.

The Chairman: The Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Chairman, I beg to move that clause 17 be amended by inserting after the word "Governor" the words "in Council".

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it. Amendment passed.

Agreed: Amendment to Clause 17 passed.

The Chairman: The question is that clause 17 as amended do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 17 as amended passed.

Clauses 18 – 22

The Clerk:

Clause 18	Reserve fund
Clause 19	Balancing of revenue account
Clause 20	Ordered
Clause 21	Publication of accounts and annual report
Clause 22	Power to employ staff, etc.

The Chairman: The question is that clauses 18 through 22 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 18 through 22 passed.

Clause 23

The Clerk: Clause 23 Licenses.

The Chairman: The Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Chairman, I beg to move that subclauses (2) and (3) of clause 23 be deleted and the following substituted— "(2) Subject to subsection (3), the Authority, by notice published in the Gazette, shall specify the ICT services and the ICT networks that are required to be licensed."

"(3) In relation to ICT networks or ICT services in either Little Cayman or Cayman Brac the Governor in Council may license such ICT networks and ICT services as it sees fit and on such terms and conditions as it sees fit."

The Chairman: I do hereby grant leave for you to move the amendment in waiver of the two days' notice as required. The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to Clause 23 passed.

The Chairman: The question is that clause 23 as amended stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 23 as amended passed.

Clause 24

The Clerk:

Clause 24	Regulations relating to classes of ICT service
Clause 25	Shares of licensee not to be issued or transferred without approval of the Authority
Clause 26	Procedure for the grant of a license
Clause 27	Assignment or transfer of license
Clause 28	Duration of license
Clause 29	Renewal of licenses
Clause 30	Licence fees
Clause 31	Modification of license
Clause 32	Suspensions of license
Clause 33	Revocation of license
Clause 34	Register of applications and licenses

The Chairman: The question is that clauses 24 through 34 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 24 through 34 passed.

Clauses 35 – 44

The Clerk:

Clause 35	Cease and desist order
Clause 36	Application for enforcement
Clause 37	Powers of court
Clause 38	Universal service fund
Clause 39	Purpose of fund
Clause 40	Universal service regulations
Clause 41	Provision of Universal Service by specified categories of licensee
Clause 42	Provision of Universal Service by particular licensee
Clause 43	Contributions to the fund
Clause 44	Interconnection

The Chairman: The question is that clauses 35 through 44 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 35 through 44 passed.

Clause 45

The Clerk: Clause 45 Interconnection agreements

The Chairman: Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Chairman, I beg to move that in clause 45 sub sections (4) and (5) be amended:- by deleting the word "Minister" and substituting therefor the words "Governor in Council".

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it. Amendment passed.

Agreed: Amendment to Clause 45 passed.

The Chairman: The question is that clause 45 as amended stand part of the Bill. All those in favour please say Aye. Those against, No.

Agreed: Clause 45 as amended passed.

Clauses 46 — 52

The Clerk:

Clause 46	Pre-contract disputes.
Clause 47	Cost of interconnection
Clause 48	Infrastructure sharing
Clause 49	Numbering
Clause 50	Quality of service
Clause 51	Non-discrimination and continuity of supply
Clause 52	Equipment standards and technician certification

The Chairman: The question is that clauses 46 through 52 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 46 through 52 passed.

Clause 53

The Clerk: Clause 53 Interception of messages prohibited

The Chairman: The Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Chairman, I beg to move that clause 53(2) be amended as follows: by deleting paragraph (a) and substituting the following—“(a) the message is intercepted, monitored or interrupted in obedience to a warrant or an order issued by the Governor;” -by deleting paragraph (b) and renumbering all subsequent clauses.

Further amendment—Subsection 2 Clause 53(2): in paragraph (c) by inserting after the word “expressly” the words “or impliedly”; in paragraph (d) by inserting after the word “Authority” the words “or on the written instructions of the Authority”; and by deleting paragraph (e) and substituting the following—“(e) the message is intercepted, monitored or interrupted by the ICT network provider or ICT service provider over whose network or service the message is being transmitted for the purposes of—

- (i) providing or billing for that ICT network or ICT service;
- (ii) preventing the illegal use of the ICT network or ICT service; or
- (iii) preserving the technical integrity of an ICT network or ICT service;”.

The Chairman: Permission is hereby granted for the waiver of the two days' notice as required.

Hon. Linford A. Pierson: Thank you, Mr. Chairman.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak, the question is that the amendments stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it. Amendments stand part of the clause.

Agreed: Amendment to Clause 53 passed.

The Chairman: The question is that clause 53 as amended stand part of the Bill. All those in favour please say Aye. Those against, No.

Agreed: Clause 53 as amended passed.

The Chairman: Before we read clause 54 there seems to be a question as to the marginal notes for clause 54. On the inside of the notes it has ‘privacy of subscriber information’ but in the arrangement of sec-

tions it says ‘privacy of customer information’. Can the Minister say which one it should be—customer or subscriber?

Hon. Linford A. Pierson: Mr. Chairman, to my knowledge it should be customer information but I would ask to discuss this matter with the Second Official Member and have it corrected.

The Chairman: All right.

Clause 54

The Clerk: Clause 54 Privacy of subscriber information

The Chairman: Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Chairman, I beg to move that clause 54(3) be amended- by deleting sub clause (3) (e) and substituting the following—“(e) any disclosure which is made in obedience to a warrant or an order issued by the Governor;”.

The Chairman: The amendment is duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it. Amendment passed.

Agreed: Amendment to Clause 54 passed.

The Chairman: The question is that clause 54 as amended do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 54 as amended passed.

Clause 55

The Clerk: Clause 55 Issue of warrant for interception

The Chairman: Honourable Minister for Communications

Hon. Linford A. Pierson: Mr. Chairman, I beg to move that clause 55 be deleted and renumber all subsequent clauses.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stand part of the clause. All those in favour please say Aye. Those against, No.
Ayes.

The Chairman: The Ayes have it. Amendment passed.

Agreed: Clause 55 deleted.

Clause 56

The Clerk: Clause 56 Review of administrative decision by the Authority

The Chairman: The question is that clause 56 do stand part of the Bill. All those in favour please say Aye. Those against, No. Those against, No.

Ayes

The Chairman: The Ayes have it.

Agreed: Clause 56 passed.

Clause 57

The Clerk: Clause 57 Appeals to the court

The Chairman: Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Chairman, I beg to move that clause 57(1) be amended by deleting "58" and substituting "56" therefore "sections 35 and 56" and inserting "section 35" before such "56".

Ms. Edna M. Moyle: Mr. Chairman, this is 57(1) and we are deleting where it says "specified in section 58" and replacing that with?

Hon. Linford A. Pierson: "35 and 56".

Ms. Edna M. Moyle: Should it be specified in sections?

Hon. Linford A. Pierson: Yes.

Ms. Edna M. Moyle: Thank you.

Hon. Linford Pierson: Thank you.

The Chairman: Could I ask the Honourable Minister if the amendment he is proposing is that clause 57 be amended in subclause 1 by deleting section 58 and substituting therefore section 35 and 56?

Hon. Linford A. Pierson: That is correct.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.
Ayes.

The Chairman: The Ayes have it. Amendment passed.

Agreed: Amendment to Clause 57 passed.

The Chairman: The question is that clause 57 as amended do stand part of the Bill. All those in favour please say Aye. Those against, No.

Agreed: Clause 57 as amended passed.

Clauses 58 – 69

The Clerk:

Clause 58	Inspections
Clause 59	Engaging in ICT activities without a licence
Clause 60	Malicious damage to apparatus
Clause 61	Obstruction of investigation
Clause 62	Refusal to produce documents, ect.
Clause 63	Giving false information
Clause 64	Failure to attend to give evidence
Clause 65	Dangerous transmission, etc.
Clause 66	Territorial scope of inchoate offenders
Clause 67	Use of an ICT service to defraud, abuse, annoy, threaten or harass
Clause 68	Offences by bodies corporate
Clause 69	Order for payment of compensation

The Chairman: The question is that clauses 58 through 69 do stand part of the Bill.

Hon. Linford A. Pierson: Mr. Chairman, there is an amendment to section 68 on amendment number 2.

The Chairman: It is shown that there is an insertion of a new clause so we are proposing to do that at the end.

Hon. Linford A. Pierson: Mr. Chairman, if that is the procedure you wish to follow, but I could do it now.

The Chairman: The provisions have been made for inclusion at the end, Honourable Minister. The question is that clauses 58 through 69 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 58 through 69 passed.

Clause 70

The Clerk: Clause 70 Power to make regulations

The Chairman: Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Chairman, I beg to move that clause 70 (1) be amended by inserting after the word "Governor" the words "in Council"; and in paragraph (b) by deleting the words "authorising or".

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it. Amendments passed.

Agreed: Amendment to Clause 70 passed.

The Chairman: The question is that clause 70 as amended do stand part of the Bill. All those in favour please say Aye. Those against, No.

Agreed: Clause 70 as amended passed.

Clause 71

The Clerk:

Clause 71	Immunity
Clause 72	Establishment of ICT installations on land
Clause 73	Amendments
Clause 74	Repeals

The Chairman: The question is that clauses 71 through 74 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 71 through 74 passed.

Clause 76

The Clerk: Clause 76 Transitional arrangements

The Chairman: The Honourable Minister.

Hon. Linford A. Pierson: Mr. Chairman, I beg to move that clause 76 be amended—by renumbering clause 76 as clause 75; and by deleting sub clauses (1) and (2) and substituting the following— "75. (1) Any licences or other enabling instruments issued to any person to provide any aspect of ICT services or

ICT networks in the Islands and which are valid immediately before the commencement of this Law shall continue to remain in full force and effect and shall authorise the continued ownership and operation of the ICT services and ICT networks provided under such licences or enabling instruments until 31 December 2002 or such later date as the Governor in Council may specify by notice published in the Gazette.";

And by renumbering the clauses accordingly; and by amending sub clause (5) (proposed renumbered sub clause (4)) by deleting "(2)" as it appears in the first line and substituting therefor "(1)".

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

If no Member wishes to speak the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it. Amendment passed.

Agreed: Amendment to Clause 76 passed.

The Chairman: The question is that clause 76 as amended do stand part of the Bill. All those in favour please say Aye. Those against, No.

Agreed: Clause 76 as amended passed.

Insertion of New Clause 68

The Clerk: Insertion of new clause 68.

The Chairman: The Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Chairman, I beg to move that the Bill be amended with the insertion of the following new clause 68

The Clerk: New Clause 68 Unlawfully acting as the administrative point of contact or technical point of contact.

The Chairman: The new clause shall be deemed to have been read the first time. The question is that this clause be read a second time.

The Honourable Minister.

Agreed: The new clause read a second time

Hon. Linford A. Pierson: Mr. Chairman, I move that the Bill be amended by inserting the following new section— "Unlawfully acting as Administrative Point of Contact or Technical Point of Contact. 68 (1) Any person who, without the written consent of the Authority:

- a) acts or purports to act as, or holds himself out as being authorised by the Authority to act as, the Administrative Point of Contact for the top level of the global Internet Domain Name System assigned to the Islands; or
- b) acts or purports to act as, or holds himself out as being authorised by the Authority to act as, the Technical Point of Contact for the top level of the global Internet Domain Name System assigned to the Islands,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000 or on conviction on indictment to a fine and to imprisonment for a period not exceeding one year.

“(2) Any person who, without the written consent of the Authority—

- a) deals with or assumes any rights in relation to the top level of the global Internet Domain Name System assigned to the Islands; or
- b) makes or attempts to make any request to the Internet
- c) Corporation for Assigned Names and Numbers or the Internet Assigned Numbers Authority to re-delegate responsibility for the top level of the global Internet Domain Name System assigned to the Islands,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000 or on conviction on indictment to a fine and to imprisonment for a period not exceeding one year.

“(3) The Authority may bring civil proceedings against any person who contravenes this Law and the court may in such proceedings make such order as it considers appropriate including orders requiring compliance with any provisions of the Law and the regulations.

“(4) If a person does anything outside the Islands and his action, if it had occurred within the Islands would have constituted the commission of an offence under this section, he shall be guilty of the offence and liable to any of the penalties specified under this section.”

And by renumbering the clauses of the Bill accordingly.

The Chairman: The amendment has been moved. The question is that this clause as amended be added to the Bill as clause number 68 and that the subsequent clauses be renumbered accordingly. Does any Member wish to speak?

The Second Official Member.

Hon. David F. Ballantyne: Mr. Chairman, I think since there already is a clause 68 this should perhaps be clause 68A and then the renumbering will take effect when the Law is finally printed.

Hon. Linford A. Pierson: Mr. Chairman, I think the Member for North Side has perhaps found a solution to it. Since we are deleting clause 55 then the renumbering would take effect accordingly.

The Chairman: The question is that this new clause inserted as 68 be added to the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 68 passed

The Chairman: The Ayes have it.
The Second Official Member.

Hon. David F. Ballantyne: Just to point out Mr. Chairman, that even though the renumbering took place we do have a clause 69 which would have become 68. I do not have a problem with the suggestion but we would still have a 68 already so I still think we need a 68A on reflection.

The Chairman: Could I just have someone to move a motion that it be renumbered as 68A?

Hon. David F. Ballantyne: Mr. Chairman, I move that the new clause 68 be renumbered 68A.

The Chairman: The question is that the new clause 68 be renumbered as 68A. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 68 renumbered and added to the Bill as Clause No. 68A.

New Clause 68A passed.

First Schedule, Second and Third Schedules

The Clerk:

First schedule	Proceedings of the Board, et cetera.
Second schedule	A code to govern the acquisition by licensees of rights over land and ancillary rights
Third schedule	Amended enactment

The Chairman: The question is that Schedules 1, 2 and 3 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: First, Second and Third Schedules passed.

The Clerk: A Law to establish the Information and Communications Technology Authority and to vest property into the Authority; and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: The question is that the Bills be reported the House. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it. The House will resume.

Agreed: That the Bills be reported to the House.

House resumed at 1.05 pm

The Speaker: Please be seated. Proceedings are resumed. I think it is appropriate at this time to take the luncheon break. We will resume at 3 o'clock.

Proceedings suspended at 1.05 pm

Proceedings resumed at 3.14 pm

[Madam Speaker in the Chair]

The Speaker: Please be seated. Proceedings are resumed.

REPORTS ON BILLS

The Parliamentary Pensions (Amendment) Bill, 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I am to report that a Bill entitled The Parliamentary Pensions (Amendment) Bill, 2002 was considered by a committee of the whole House and passed with one amendment.

The Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Immigration (Amendment) (Immigration Appeals Tribunal) Bill, 2002

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Madam Speaker, I have to report that a Bill entitled The Immigration (Amendment) (Immigration Appeals Tribunal) Bill, 2002, was considered by a committee of the whole House and passed with two amendments.

The Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Animals (Amendment) Bill, 2002

The Speaker: The Honourable Minister responsible for Agriculture.

Hon. Gilbert A. McLean: Madam Speaker, I have to report that a Bill entitled A Bill For a Law to Amend The Animals Law 1999 Revision, to Provide for the Licensing Of Dogs; The Regulations of Dangerous And Prohibited Dogs; Establishment of an Animal Welfare Advisory Committee, The Appointment of Animal Welfare Officers; and for Incidental and Connected Purposes, was passed with various amendments.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

The Information and Communications Technology Authority Bill, 2002

The Speaker: The Honourable Minister responsible for Communications.

Hon. Linford A. Pierson: Madam Speaker, I have to report that a Bill entitled A Bill for a Law to Establish the Information and Communications Technology Authority and to Vest Property in the Authority; and for Incidental and Connected Purposes, was considered by a committee of the whole House and passed with various amendments.

The Speaker: Thank you. The Bill has been duly reported and is set down for the Third Reading.

THIRD READINGS

The Parliamentary Pensions (Amendment) Bill, 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to move that a Bill soon to be entitled The Parliamentary Pensions (Amendment) Bill, 2002, be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled Parliamentary Pensions (Amendment) Bill 2002 be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Parliamentary Pensions (Amendment) Bill 2002 given a Third Reading and passed.

The Immigration (Amendment) (Immigration Appeals Tribunal) Bill, 2002

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Madam Speaker, I beg to move that a Bill entitled The Immigration (Amendment) (Immigration Appeals Tribunal) Bill, 2002, be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled The Immigration (Amendment) (Immigration Appeals Tribunal) Bill, 2002, be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Immigration (Amendment) (Immigration Appeals Tribunal) Bill 2002 given a Third Reading and passed.

The Animals (Amendment) Bill, 2002

The Speaker: The Honourable Minister responsible for Agriculture.

Hon. Gilbert A. McLean: Madam Speaker, I beg to move that a Bill entitled A Bill For a Law to Amend The Animals Law 1999 Revision be given a Third Reading and passed.

The Speaker: The question is that The Animals (Amendment) Bill 2002, as amended be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Animals (Amendment) Bill 2002 given a Third Reading and passed.

The Information and Communications Technology Authority Bill, 2002

The Speaker: The Honourable Minister for Communications.

Hon. Linford A. Pierson: Madam Speaker, I beg to move that a Bill shortly entitled, The Information and Communications Technology Authority Bill 2002, as amended be given a Third Reading and passed.

The Speaker: The question is that a Bill entitled The Information and Communications Technology Authority Bill 2002, as amended be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Information and Communications Technology Authority Bill 2002 given a Third Reading and passed.

MOTIONS

GOVERNMENT MOTION NO. 1/02

The Development and Planning (Amendment) (Heights of Buildings) Regulations 2002

The Speaker: The Honourable Minister responsible for Planning.

Hon. Linford A. Pierson: Madam Speaker, Government Motion No. 1/02 reads:

“WHEREAS section 45(1) of the Development and Planning Law (1999 Revision) provides that the Governor in Council may make regulations;

“AND WHEREAS section 45 (3) of the said Law provides that no regulations shall be made pursuant to the said Law unless a draft thereof has been laid before the Legislative Assembly and a resolution approving the draft has been passed by the Legislative Assembly.

“BE IT NOW THEREFORE RESOLVED THAT The Development and Planning (Amendment) (Heights of Buildings) Regulations 2002, having been laid on the Table of this Honourable House, be hereby approved by the Legislative Assembly in accordance with the provisions of section 45 (3) of the Development and Planning Law (1999 Revision).”

The Speaker: The Motion has been duly moved and is opened for debate. Does the Honourable Minister wish to speak thereto? Please proceed.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

Madam Speaker, the Development and Planning (Amendment) (Heights of Buildings) Regulations 2002, is an important initiative being proposed by this Government (the United Democratic Party), to address a number of areas of the regulations that have needed attention for some time, as well as to provide new incentive and stimulus to our lagging economy and the construction sector, in particular.

Definitions

The proposed amendments deal with a number of issues including the definition of height of buildings, General requirements for parking, setbacks, waterfront property, mangrove buffer zone, land for public purposes and the application fee for excavations.

The following explanatory information is provided for the benefit of Honourable Members of the Legislative Assembly and corresponds to the numerical sequence as contained in the amending legislation—

- 1) Title of the legislation.
- 2) (a) Adds definitions for general commercial zone 1 and 2 and a hotel tourism zone 1.
(b) Amends the definition of height of building as the current definition gives too much discretion to designers and/or the Central Planning Authority when determining the height of buildings. The existing definition does not specify where the height should be measured from and the proposed amendments will give a fixed reference point and can be located at any time. It will also afford designers greater confidence in the outcome of the CPA's decisions as the definition will now be clear.
- 3) (a) This amendment seeks to remedy the existing situation where the total number of parking spaces for a new development can be provided offsite in a nearby location. A nearby location has never been specified and has resulted in many people parking unauthorised in other spaces to avoid walking from the designated off-sight parking area. The off-sight parking sites have therefore never been fully utilised. It is hoped that by specifying a distance within 500 feet and the maximum percentage of spaces that can be accommodated offsite, 25 per cent that the unauthorised parking pressures can be reduced.
(b) Amends the maximum permitted height of buildings according to zones in an attempt to stimulate development.
 - ◆ General commercial zone GC-1 from five to seven storeys.
 - ◆ General commercial zone GC-2 remains at five storeys.

- ◆ High, medium and low density residential from two to three storeys.
- ◆ Beach resort residential remains at three storeys.
- ◆ Agricultural residential now specified at two storeys.
- ◆ Hotel tourism condominium height to increase from three to seven storeys.
- ◆ Hotels to increase from five to seven storeys.

General Commercial Zones—(CG)

The general commercial zone of George Town will now have two sub sections differing only in height restriction. All other regulations will apply as for general commercial. The boundaries of the seven storey sections for GC-1 can be described as follows starting from the North:

- I. Mary Street (to the junction Shedden Road including adjacent parcels to the North).
- II. Shedden Road to the junction with Thomas Russell Avenue, including adjacent parcels to the North.
- III. Thomas Russell Avenue (to the junction with Elgin Avenue).
- IV. Elgin Avenue (to the junction with Hospital Road).
- V. Hospital Road (to the junction with Walker's Road).
- VI. Walker's Road (to the junction with Boilers Road).
- VII. Boilers Road (to the junction with Harbour Drive).
- VIII. Harbour Drive (to the junction with Mary Street).

In order to maintain good aesthetic quality it should be noted that—

1. Buildings of three storeys in the residential and beach resort zones shall be designed so that no continuous vertical façade or elevation exceeds 25 feet or two storeys in height; and
 2. Buildings three or more storeys in the hotel tourism zone, shall be designed so that no vertical façade or elevation exceeds 33 feet or three storeys in height.
 3. Building in the general commercial zones shall not exceed the height limitations prescribed by the Director of Civil Aviation which is currently provided for, as well.
- (c) Repeals words "65 feet and five storeys" and substitute "80 feet and seven storeys" respectively.
 - (d) Specifies that set back, that is, building lines distances be measured from certain struc-

- tures including septic tanks, deep wells, cisterns, stairs and balconies.
- (e) Provides for maximum and minimum set backs for underground facilities and structures to be at the discretion of the CPA. The solid waste storage areas are set back a minimum of six feet from property lines and are screened with fencing and vegetation. Minimum set backs and minimum lot sizes of 20,000 square feet for new lots in the commercial and industrial zones.
- (f) Deals with waterfront property and provides for minimum set backs to now be measured in all cases from the high water mark as opposed to low water mark as is at present. In central George Town and in areas where the shore line is beach or mangrove, the minimum set back shall be 75 feet from the high water mark. In areas where the shore line is iron-shore, the amendment calls for 50 feet minimum set back from the high water mark. On canal and inland water ways a minimum set back is now being specified at 20 feet from the high water mark. In hotel tourist related zones the set back is being increased from 100 feet from the low water mark, up to two storeys with an additional 30 feet for every additional storey. To a 130 feet set back from the high water mark, up to three storeys with an additional 15 feet set back for every additional storey. In marine commercial and neighbourhood commercial zones the minimum set backs shall be 50 feet from the high water mark for buildings up to two storeys with an additional 15 feet for the third storey. All water front lots except in hotel tourism zone must be a minimum of 100 feet in mean distance from the road to the high water mark for development to be allowed. The same distance is currently measured from the low water mark.
- (g) This new section provides some discretion to the Central Planning Authority in granting water front set backs to a lesser extent, having regard to various physical features of the property and its environs including elevation of property, existing or protected reef, et cetera.
- 4). In the hotel tourism zone the density is being increased from current limitations of 20 apartments per acre, with 35 bedrooms to a maximum of 25 apartments only. This is proposed to compensate for the increase water front set back.

Clauses 5 to 11

- Clauses 5, 6 and 7 repeal other sections of the regulations that conflict with the changes above.
- Clause 8 amends the maximum width allowed to be cut through the mangrove buffer zone from 75 feet to 100 feet. Developers are insisting that this is necessary to allow safe passage of vessels.
- Clause 9 provides for the payment of money equivalent to the improved value of the land in lieu of setting aside land for public purposes in a sub division. This payment can be accepted if the CPA is satisfied that greater public benefit would be derived and that the sub division already has sufficient land set aside for public purposes. The amendment also specifies the use to which the funds can be applied, which are the acquisition of private land for public purposes and the improvement of land used for public purposes, including children's playgrounds, sports fields, parks, churches, community centres and recreation centres.
- Clause 10 provides for amendments to the First schedule as follows: Current fees for carrying excavation are levied at the lesser amount of 15 cents per cubic yard or \$750 plus 10 cents per cubic yard irrespective of whether the project is approved. This amendment provides for a non-refundable application fee of \$1,000 for Grand Cayman and \$100 for the sister Islands to be paid up front. If planning permission is granted, an additional amount is levied at 15 cents per cubic yard or \$1,500 plus 10 cents per cubic yard, whichever is less. A small amendment to the change of use of land which adds car parks, et cetera.
- Clause 11 insertion of a third schedule or map which creates two sub sections of the existing George Town central and general commercial zone into GC-1 and GC-2. The new seven storey height restriction will apply only to GC-1. Insertion of a fourth schedule for hotel tourism zone 1 which relates to zoning of hotel tourism zoning between the West Bay Cemetery in the North and the Dixie Cemetery in the South.

Madam Speaker, this is a most important amendment to the Development and Planning Regulations as the purpose of it is to assist with the stimulation of our lagging economy at this time, and I would ask all Honourable Members to give it their full support. Thank you.

The Speaker: Thank you, Honourable Minister. Does any other Member wish to speak?

The First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you.

Madam Speaker, in listening to the Honourable Minister's presentation regarding the proposed Development and Planning (Amendment) (Heights of Buildings) Regulations 2002, I wish to say that the intent of these amending regulations is understand-

able. Perhaps it is safe to say that the way in which times have changed, this too is an area that needed to be addressed. I will go through several of the sections and make comments. Like most other things in life it is always good to hear perspective from another angle. Maybe the combination might bring about the best results.

Proposed Heights of Buildings: The first instance I wish to address is perhaps one that may have been the most controversial, but it does not seem to be so because of the way it is being presented. However, it has to do with the height of buildings in the proposed schedules where we speak to Cemetery to Cemetery; hotels and condominiums being able to be built to seven storeys rather than existing five; and also commercial buildings in certain zonings being able to go to seven storeys. Some of the outside of the OPY areas will still remain at five storeys (from my understanding when reading the proposed amending regulations). There are two points when we speak to the hotels and condominiums, taking them one at a time.

Density Levels: My understanding is that the density levels in the land that is zoned for condominiums to be built, there will be an additional five units being able to be built per acre. When we look from Cemetery to Cemetery we will see that on the beach side the vast majority of the land is already developed. Some are much newer structures but some of the properties are, perhaps by now, as old as 30 years. If we were to look at those older structures especially, by now the vast majority of the individual units, if not all, will be owned separately by individuals and or other types of entities. A developer could try to put something together saying that these buildings are fairly old and rather than continue renovation, one might wish to redevelop the entire property.

However, it would certainly be a very difficult situation with the economies of scale to try and justify buying out existing investors and paying for the cost of constructing new buildings, which would mean trying to find new investors in these properties. Certainly, having to go through the procedure in that manner would almost inevitably double what they are costing now. As it is, we have already almost priced ourselves out of the market when we speak to other competitive jurisdictions. I am not speaking about the tourist trade either, I am speaking about the purchase of ocean front or beach front properties for developments.

So, Madam Speaker, being able to add five more units per acre certainly makes a difference with regards to how a potential investor would look at a property of that nature. Also, being able to go up to seven storeys one might also venture the thought that perhaps the land use could be applied in a manner which would allow for more of the ancillary purposes, not just the actual buildings. It would also possibly allow for an extra amount of parking, which I believe, consensus is that nearly all of those existing places,

not only in the commercial areas but along the Seven Mile Beach, it would be very nice if more parking spaces were to be provided.

Aesthetics: There was a big question mark in the minds of many individuals which regards to hotels being allowed to seven storeys. One of the base arguments was the aesthetics of what existed along the Seven Mile Beach corridor presently, and how that would change the face if we had several new structures which were allowed to be seven storeys. I think if we are to be fair to the situation that exists or obtains, at present, it would have made a huge difference in times when more of the land was undeveloped. As it is now I do not see a huge difference. So, I do not think that point will actually stand as strong as it might have in times gone by.

There were huge questions in the minds of certain persons about hotels being allowed to be built with five storeys, at present, and these regulations will allow them to go seven storeys. If the densities were changed there is a huge question because the Esterly Tibbetts highway (what we know as the by-pass) is only completed up to a certain distance and there are gaps in between to get into West Bay. Many people thought that a proportionate increase in the number of rooms by being able to go two more storeys, would certainly have a very negative impact on traffic along West Bay corridor. This was simply because there was not another through route, not only to the district of West Bay, but to people being able to make a decision as to which route to take depending on where they were going and what was the purpose of their journey.

My understanding is that the density remains status quo as it was. To make sure that my understanding is correct I would like for the Minister to clear it up. So, if a property is one acre and what obtains at present is that it allows 65 rooms per acre, and is able to be built five storeys, then even if it is able to go up to seven storeys on that acre it is still only 65 rooms per acre. The Minister also mentioned the high water mark when it comes to set backs. At the end of the day that will allow more beach property to be preserved and perhaps less argument between those who own the properties and the public having access across those properties. There may be less argument if there is more beach property. Also, if the density is not increased and you are allowed to go up two more storeys, then certainly, you would have the ability to have more land mass that is not used for construction purposes, and perhaps create more parking and other amenities for the owners, tenants or visitors who come to stay for short periods of time. That, in it-self, as I understand it, would not have a negative impact on the lack of infrastructure that exists, that is, roads, et cetera. If how I understand it is correct, then certainly I do not think we can argue about that either. I have not seen the Minister nod so I guess I will just have to wait to see if I am right or not.

Commercial Buildings: I would like to go on to the commercial buildings to the areas that will now be able to go to seven storeys. There are arguments on both sides that could probably be given a plus as salient points, and while, as the Minister as presented his case, he speaks to the fact that this may well be an incentive for some increased activity in the construction industry and also development on a whole. The situation that exists now speaks to five storeys or 65 feet to the soffit. What is proposed at present is to move that in the scheduled area to seven storeys and 80 feet. The point that I need to raise with this issue is this: If we speak to multi-storey buildings and we go beyond five storeys, when we reach to buildings that are 70 feet high, the general term applied to buildings that height and over, I believe, is called 'high rise' buildings. When you speak to high rise buildings, what we have existing at present is a Fire code and the Building code, which speaks to various areas of safety et cetera, with regards to certain types of buildings and certain buildings with a certain height.

As already mentioned to the Minister, one of the concerns that we, on the Back Bench, have with the proposed amendment, is not about moving it from five storeys to seven storeys, but ensuring at the same time that as we have these proposed amendments to the regulations, we also have what is necessary to be put into the other two documents, which are, the Fire code under the Fire Brigade Law; the Building code which has each aspect; the Water Authority; the Building Control unit which oversees all the various aspects of the construction of a building and each department (electrical, plumbing, et cetera.) that takes care of each section.

So, let me try and get to the point of what exists. We have a Fire code and a Building code which only speaks to five storey buildings at present, and certainly, the requirements, once you go beyond that are different. I have no doubt in my mind that the intention is to address this. The big fear that the Opposition has at present, is going through with this legislation.

Forget about logic; forget about what we know should happen, let us deal with the Law. Here is an example: if we have these regulations and an applicant comes in short order for a seven storey building and one side of the coin has been addressed by allowing that seven storey building, but the other side of the coin has not been addressed with regards to putting teeth into the areas that teeth needs to be put into. With the requirements that are more onerous than what exists at present, because of the height of the buildings, what could very well happen is that the Central Planning Authority might find itself in a position of having to approve such an application because it meets all of the requirements of the Law and the regulations. As I said, throw logic aside because logic would tell you that you would not want to do that. Logic would also say to you that a developer who is responsible would not want to develop such a site

and go seven storeys without meeting the criteria that is only sensible and safe for the long term.

The truth of the matter is that you cannot presuppose all of those things so I am saying that we need to have one in tandem with the other. I am certain that the Minister wants to see that happen and we just want to know how that is going to happen and what exactly is going to follow suit.

Parking: There is also a question of parking. I heard what the Minister said and there is merit to the specific areas that have been addressed. However, I still believe that there is a problem with the way the regulations are at present. Outside of the designated area of the OPY the parking requirements for commercial buildings is one parking space for every 300 square feet of building. In OPY it still remains as one space for every 500 square feet of building. One might well say that the vast majority of OPY is already built up, at present. That is not to say that older buildings in OPY might not be able to be, as said by the old lady: '*laid low level*' to rebuild again and have the same parking requirements. The arguments that I have heard, thus far, centre around the fact that the land in OPY is so expensive that it would be more than onerous to speak to increasing the requirements for parking to be one for every 300 square feet. I have seen innovation where people actually go down below to create a floor of parking. If you are able to go seven storeys, then my view is that there should be one parking space for every 300 square feet.

We speak to one side of the coin to speak about trying to stir the pot to create some development and stimulate it. However, when we look at reality, notice the problems we have everyday in Town—every single day; it is not getting better. We talk about parking metres in designated areas and I will not get into a long debate on that to run the risk of having you deal with me, Madam Speaker. I use that to say that we certainly have major problems with parking. So, I believe, that while it is not addressed in these proposed amendments, a serious look needs to be taken.

I understand the counters to the argument that I have put forward but I do not believe that they out-weigh the sense of dealing with that in the same manner as other commercial properties on the periphery of OPY, whenever development takes place, which has to meet the requirement of one parking space for every 300 square feet. I am not sure how the Government is going to look at that view, but certainly it is put forward with the belief that it is in the best interest, especially for the long term, for us to be looking at it along those lines.

In commercial and industrial zones where we speak to the minimum road set back, it shall be 20 feet and the minimum side and rear set backs shall be six feet unless otherwise specified by the Authority. I served on the Central Planning Authority for several years and like others in here, I am certain, have their own experiences from the Brac and Little Cay-

man with the Development Control Board. I really do not like how this is worded. It says: "the minimum side and rear set backs shall be six feet unless otherwise specified by the Authority". I see it as ambiguous and I always have a problem with what the requirements are going to be from the other agencies. In this specific instance again, the Fire Service with regards to access. The way this is worded it seems to me if the Central Planning Authority is so minded it can make it less than six feet. We have had problems in the past with this same situation. Now I am not absolutely sure what the intention is with how it says. The Minister will surely have an opportunity to clear the matter up. I raised the issue because what it is saying to me, is that the Authority can say that it should be more than six feet or it can say that it should be less than six feet depending on how the circumstances are viewed, at that point in time. Discretion is something that I know they need. Again, by experience, we found our hands tied on many occasions, even when we knew the right thing to do, but the Laws and the regulations would not allow us to do it.

I just flag that issue up because I believe the matter needs to be cleared up. I think that it should be clearly understood that my leaning is towards having something that is fixed based on what the safety requirements would be, given normal circumstances. Also, simple maintenance! Buildings require maintenance and while we have boom trucks in this day and age, there are certain types of maintenance that require space to be able to do. You cannot allow someone to build to his or her boundary and when they have to do maintenance they have to go over to somebody else's property to do it; that is not the right thing. So, perhaps we will hear exactly what is meant by the way it is worded.

Madam Speaker, I think that it is sensible in going back to the high water mark and to have looked at both sides of coin. It is obvious that if we did not deal with any densities for anything when people bought properties they would have bought given on the existing Laws and regulations. They would also have decided that the property was worth it based on being able to construct a certain number of units if that was what they were doing, or with certain densities, as is allowed by the Law now. Going to the high water mark, certainly would lessen their ability to utilise the landmass by a construction compared to what exist now. In doing one and compensating with the other was sensible. The positive result is if you have more land mass at the end of the day that you are able to utilise for other purposes besides actual construction and living space, certainly, that property must be deemed to be better designed for whoever owns it.

I want to move on now to section 8, which speaks to the principal regulations as amended in regulation 17(4) (c) by repealing the words "75 feet" and substituting the words "100 feet". The Minister basically explained and the marginal note speaks to

amendment of regulation 17—Mangrove buffer zones. As the Minister has explained, the 75 feet width is in practical terms. For instance, we speak to a canal that may lead into the North Sound; the truth of the matter is that not only is it sensibly done by design in many instances to have a canal that is not straight but also sometimes the lay of the land calls for such a canal not to be straight. When the Minister spoke about safety when it comes to navigating vessels through those areas, the fact is that if it is not straight and you have curves in it (75 feet sometimes) creates a problem if you have two vessels going in opposite directions. The curve is just too narrow! It is almost like two cars on the road, opposite directions going around a narrow corner and there is not enough space to pass. It is similar to that.

While we would say that we do not want to have more than 75 feet as an access through a buffer zone for environmental purposes, I think, the better way to address that is to decide on how many accesses you will have and increase the access to a hundred feet for purposes of safety. I am saying, Madam Speaker, that proposed amendment we (the Opposition) all agree with and certainly, we do not have any problems with that.

We need to look very carefully at section 9. It says, "the principal regulations are amended in regulation 27 as follows— **"by renumbering the regulation... and by inserting after sub-regulation (1) the following sub-regulations—'2) the Authority may permit an applicant in lieu of setting aside land in a subdivision under sub-regulation (1), to pay a sum of money not exceeding 5 per cent of the improved value of the land if the Authority is satisfied that – a) the subdivision has sufficient land set aside for public purposes; and b) greater public benefit would be derived from the payment.**

Subsection (3) says: **"Permission under sub regulation (2) may be granted subject to such conditions as the Authority considers fit"**.

It goes on to speak to money paid pursuant to sub regulation (2): **"...shall be applied to- a) the acquisition of private land for public purposes; and b) the improvement of land used for public purposes, including children's playgrounds, sport fields, parks, churches, community centres and recreation centres"**.

I think that what is generally sought by these amendments is acceptable. For years we have had complaints from people about what we use to commonly call public open space, which I think is now deemed to be land for public purposes—seems like I am not too sure whether the two are the same, but anyway, I think they are the same—similar! Let us not say exactly the same, but similar. Lots of time we heard these complaints, not just from people driving across but from people who lived in these areas, that this public open space was not maintained. Unfortunately we have not come of age at present where it is very common for us to have what we call citizens as-

sociation and homeowners associations when it comes to single family homes in a sub division. By the force of nature most of the apartment complexes have to have the strata organised because of payments common areas, et cetera. However, in sub divisions we do not have such an organised situation prevailing by and large, otherwise we may not have had that problem and people would take pride in taking over the property, maintaining it jointly so that there is no stress on any one individual as to who has to take care of it and to whose pocket the funds come from.

I have known of instances very recently, where developers have gone to the Planning Department to make application to Central Planning Authority to repossess such lots that were allocated to be public open space or land for public purposes, with a view of compensating in some other form or fashion. Now, there are many developments which presently exist that the majority of the lots are vacant. Some of them are not small developments; they are large developments. The majority of lots are vacant. Some people have already built houses there, but the fact of the matter is, if we look at how this is proposed to be applied, we could end up with families in sub divisions who have to make special trips, certain distances and have to allocate special times in their lives for their children to be able to utilise the playground.

One may want to use the argument and say that we do not have enough for them all around. I agree with that! As I said, by and large I do not have a problem with the principle that is being applied. However, I think we must look at that carefully because I do not believe that developers should be allowed to repossess those lots until individual situations are satisfied and looked at very carefully, and the home owners in that area wish for that to be done to put whatever Government gets from this as compensation towards a general situation. I sense that there will be more developers than it should be who may suddenly have the desire to do that.

Perhaps, if it takes five or seven years just using what I think to be a reasonable time span for a certain development to be almost fully developed, so to speak, where the majority of the lots have houses on it, what that lot can fetch today might be seen as a chance by the developer to simply make some more money. Sometimes depending on the size of the development it could be one single area that could be subdivided into three or four lots. So, that may be deemed to be looking at the dark side of it but I already have my ears ringing from two different individuals who are experiencing the situation in the sub division where they live. The truth is if it is done like this and the developers are able to do what I am speaking about then you cannot blame them for doing it. What I am saying is that we have to find a way to ensure that this is not how it happens. That is my point.

Again, depending on the size of the sub division or if the Central Planning Authority called for 5 per cent of the land mass to be designated as open public space or land for public purposes, and it is deemed that they really do not need all of that property to have a community park or play area, I do not have a problem with that. However, the point I am making is that we cannot take this up after it is approved and decide when an application comes in that we can say "well, I think you are right". I am saying that we have to find a way to understand each situation and make sure that we are doing justice to the people. Do not forget that the way this is worded does not speak to a homeowner having any right to say anything about this. Not for a minute does it speak to that. I do not see it anywhere here. It speaks to a relationship between the government and a developer. It speaks to the Authority having the ability to permit an applicant. In looking at it, one might say that this envisages new applications but the situation that I am talking about are existing sub divisions, so I do not know how that is being dealt with.

What I do not believe should happen is that while the Authority may have discretion, I do not believe the Authority should have *that* type of discretion; It is not a distrust with the Authority. I simply do not believe that, given those circumstances, because homeowners are not into the equation; if you see the point that I am making. I do not believe that that should be the case. It may sound like a small issue but I think we need to ensure that there is satisfaction with the way forward so that we do not have those types of problems.

Before I move away from that, section 9(4) speaks to: "**(4) money paid pursuant to sub regulation (2) shall be applied to- a) the acquisition of private land for public purposes; and b) the improvement of land used for public purposes including children's playgrounds, sports fields, parks, churches, community centres and recreational centres**".

Are we speaking of a segregated fund? How are we dealing with it? We speak to these monies being applied to certain things but—the Honourable Third Official Member, I am certain would bear me out—we have created similar situations of this nature and have no designated way forward of how to deal with them. We speak to these funds applied but I do not where the funds are going to go. I am not wishing to speculate but if that is the purpose of these monies that are collected then we must have the machinery in place to ensure that is what it is used for. I am being reminded of the environmental protection fund, which is still not sorted out, if I remember correctly.

Excavation or Dredging: The other area I wish to speak to, which has been a problem in the past, and which I have experienced, is under section 10 regarding the carrying out of an excavation or dredging. The Minister has explained the new way forward, which certainly makes life a lot easier than

the way it was before. When I was referring to the Third Official Member just a while ago I did not call on the specific situation but it is this same situation that I was talking about.

What we have had in the past is where agreements were made through the Central Planning Authority and the Planning Department, with a developer doing excavation or dredging and having to pay certain royalties. The Planning department is saying that they Department of Finance and Economic Development is suppose to collect the money but that Department knows nothing about the money to be collected.

So, it totally depended on the good character of the individuals who were doing the dredging, for them to decide when they were going to come in and pay or if they should pay at all. We certainly do not want that to happen again. That I believe is of the past and the situation has been addressed, lest the Third Official Member thinks that I am just taking pot shots at him; certainly not so. I am using an example. I see his head bowed as if he is praying for me [*chuckle*].

This issue that I speak to speaks about an application fee of \$1,000 for excavation or dredging in Grand Cayman and an application fee of a \$100 for Cayman Brac or Little Cayman. What the Minister explained is that application fee is non-refundable. I think that is what he said, but it goes on to say: **“If planning permission is granted— a. fee calculated at the rate of 15 cents in respect of each cubic yard to be excavated or dredged; or b. \$1,500 plus a fee calculated at the rate of 10 cents at the rate of each cubic yard to be excavated or dredged whichever amount is the lesser”**.

Madam Speaker, at that time a straight fee was charged if you were granted permission and it was 10,000 cubic yards, 10 cents per cubic yard, therefore it was \$1000 then. So, what has obtained in the past is that by not having a separate application fee what happened is that when your application was granted because some of the excavations were huge amounts, which actually equated to fairly large sums of money it was felt that it was onerous to expect the applicant to pay all that money up front.

It was also thought that even though everything was well intended it was not impossible that sometimes what was anticipated to be excavated could not be had because of the type of land that they met up on when they got to a certain depth; whether it was hard rock or if blasting could satisfy it or whether it as not the amount that they thought.

Again, Madam Speaker, how this is worded those arrangements used to be where the Department sat with the person and made the arrangements. The way this is worded here, I am assuming that what this means is that you pay your application fee and it is non-refundable whether your application is approved or not. When your application is approved whatever is calculated here you are told that you have

approval based on these conditions and one of those conditions will be this fee that you pay.

The other wording, while it left the whole thing open, was in a similar vain to this. My question is that does this give the Department or the CPA the authority to make arrangements of that nature? Is it the intention that this should not be allowed? Is the reason for separating your application fee with what your royalty fee is, just for that same purpose so that if someone is going to be allowed to excavate or dredge, whether inland or not, or to simply reclaim a project, or whether it is for sale or not, are there going to be arrangements that can be made which would allow for them to pay on time? I am not sure what the intention is and I believe that it should be made clear otherwise we can fall into the same situation that obtained prior to this. We need to be exact about the intention.

The Speaker: We have just about reached the hour of interruption. May I call on the Honourable Deputy Leader to move for the adjournment?

ADJOURNMENT

Hon. Linford A. Pierson: Madam Speaker, I beg to move the adjournment of this Honourable House until 10 am on Wednesday 20 March.

The Speaker: Thank you.

The question is that the Honourable House do stand adjourned until Wednesday 10 am, 20 March 2002. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. The House will be accordingly adjourned until Wednesday, 20 March at 10 am.

Before rising, just for information purposes, I should wish to convey that it is my understanding that Cayman Airways will be putting on a flight, this Saturday at 10 o'clock, departure time, to Cayman Brac for the purposes of the late Honourable Captain Mabry Kirkconnell's funeral and return to Grand Cayman at 7 pm.

Thank you.

At 4.29 pm the House stood adjourned until 10 am Wednesday, 20 March 2002.

OFFICIAL HANSARD REPORT
WEDNESDAY
20 MARCH 2002
10.25 AM
Thirteenth Sitting

The Speaker: Good morning. I will invite the Second Elected Member for Cayman Brac and Little Cayman to grace us with prayers.

PRAYERS

Mr. Lyndon L. Martin: Let us pray.

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

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

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

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

Proceedings resumed at 10.27 am

The Speaker: Please be seated.

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

Governor Designate of Bermuda

The Speaker: I have received no apologies for this morning's sitting.

I should also wish at this time to acknowledge the presence of Sir John Vereker who is the Governor Designate to the Island of Bermuda. I wish to welcome him to the Cayman Islands Parliament.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**Governor (Vesting of Lands) Law, (1998 Revision)
Report and Recommendation on the Crown Grant
(Unclaimed) for Block 67(A), Parcel 5 (Part) to the
Estate of George Dixon (Deceased)**

The Speaker: The Honourable Deputy Leader, Minister for Planning.

Hon. Linford A. Pierson: Madam Speaker, I wish to lay on the Table of this Honourable House, Report and Recommendation on the Crown Grant (Unclaimed) for Block 67 (A), Parcel 5 (Part) to the Estate of George Dixon (Deceased). I have another report to lay and will speak at the end of those and at the laying of that other report.

The Speaker: So ordered.

**Governor (Vesting of Lands) Law, (1998 Revision)
Report and Recommendation on the Request for
Crown Grant (Unclaimed) for Block 87(A), Parcel
41 to the Estate of John Edward Ryan (Deceased)**

The Speaker: Honourable Minister for Planning.

Hon. Linford A. Pierson: Madam Speaker, I also wish to lay on the Table of this Honourable House the Report and Recommendation on the Request for Crown Grant (Unclaimed) for Block 87(A), Parcel 41, to the Estate of John Edward Ryan (Deceased).

The Speaker: So ordered. Do you wish to speak thereto?

Hon. Linford A. Pierson: Yes, Madam Speaker.

The Speaker: Please proceed accordingly.

Hon. Linford A. Pierson: Madam Speaker, I wish to make just a short contribution on the laying of these reports.

I can confirm that as is required by the Law the details of the two proposed land transfers have been published in an extraordinary Cayman Islands

Gazette dated 25 February 2002 and a local newspaper namely, the *Cayman Net News* Issue No. 156, dated the 22 February to the 25 February 2002.

Also, as required by Law, three valuations have been carried out on each property. Each valuation report forms part of the overall report and provides an indication of the value of the lands that Government now proposes to transfer.

The first report deals with the requests for a Crown Grant (unclaimed) for what is now Block 87(A), Parcel 41, to the Estate of John Edward Ryan (deceased). The valuation on Block 87(A), Parcel 41, estimates the land value to be in the region of US \$375 thousand.

This particular matter dates back to 1988 when Executive Council granted approval in principle for a Crown Grant of a portion of Block 87(A), Parcel 18 which amounted to 124.77 acres. There are numerous factors which have contributed to the intermittent action on this request over the years, so I will only highlight some of those issues for this Honourable House.

A survey was necessary to separate the 124.77 acres from the remainder of Parcel 18. In the late 1980's the survey was not prioritised because the swampy and overgrown terrain would have made the work lengthy, difficult and cost prohibitive to Government. In the mid 1990's with the introduction of the GPS the survey was finally completed and even then the job cost Government approximately \$20 thousand. This severed section of land then became parcel 41.

After the survey was completed, former Governor John Owen refused to sign the transfer of title documents as Executive Council had only given approval in principal in 1988. The matter was therefore sent back to Executive Council in mid 1997 but the approval given was to refer the matter to the Legislative Assembly. Those were the early days of applying the requirements of the Governor Vesting of Lands Law and this contributed to a further delay in resolving this matter.

Last year Executive Council approved the request for a Crown Grant of Block 87(A), Parcel 41, to the Estate of John Edward Ryan (deceased). This approval was given after following the standard procedures for such matters. The claim was investigated by the Director of Lands and Survey. His report on the result of the investigation along with the evidence supplied by the claimant were then reviewed by the Legal Department and found to be in good order.

The other report deals with Block 67(A) Parcel 5, to the Estate of George Dixon (deceased). Madam Speaker, you may recall that in October 1999 the Standing Public Accounts Committee tabled its Report on the Special Report of the Auditor General on quarrying operations on Crown Land, namely Block 67(A), Parcel 5. The Public Accounts Committee highlighted the fact that back in 1984 Executive Council had approved a land grant to the estate of a deceased, yet it remained outstanding. However, it would have been

difficult for the Ministry to action the matter before, now given that the administrator of Mr. Dixon's estate passed on after Executive Council's 1984 approval. The estate remained un-administered up to November 2000. Since that aspect has now been regularised this matter has been actioned in accordance with the requirement of the Governor Vesting of Land Law.

The valuation on the 10.3 acres of Block 67(A) Parcel 5 which is subject to transfer, estimate the value to be in the region of Cayman Islands \$20,000 to \$35,000.

As mentioned in my brief summary and presentation, extenuating circumstances have contributed to the lengthy delays in both of these cases. So, Madam Speaker, I would ask that you give this presentation and the laying of these documents your support, and ask for your permission that they be laid.

The Speaker: So ordered.

2001 Annual Report of Births and Deaths in the Cayman Islands

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to lay on the Table of this Honourable House, the 2001 Annual Report of Births and Deaths in the Cayman Islands for the year 2001.

The Speaker: So ordered. Would the Honourable Member wish to speak thereto?

Hon. George A. McCarthy: Thank you, Madam Speaker.

For the third year in a row the number of live births in the Cayman Islands exceeded 600. Between Chrissie Tomlinson Memorial Hospital and the Cayman Islands Health Services Complex, 607 babies were born including one baby in route to the Hospital, one born at home and 13 in Cayman Brac. There were a record number of 622 live births in the Cayman Islands during 2001.

The first Table of the Report provides a breakdown of the 622 births showing the total number of births each month by gender and the mother's reported district of residence at the time of the child's birth.

Table 2 provides and analysis by the recorded status of the parents. Caymanian parents refer to those births where both parents were reported to have Caymanian Status. The Caymanian mother, are births where the mother was reportedly a status holder and the father's status was not Caymanian or may have not been stated. Conversely Caymanian fathers are instances where the father has Caymanian status and the status of the mother was not Caymanian or not stated. Lastly, births recorded as non-Caymanian or unknown are those where appearance is recorded as having Caymanian status or

births where the mother is non-Caymanian and the father who may have Caymanian status was not recorded.

During 2001 there were a total of 146 deaths registered at the General Registry. Table 3 gives details of these deaths for each month by gender and the usual residence of the deceased. Fourteen of the deaths (less than 10 per cent) were persons not resident in the Islands. The next table attached gives details of the 146 deaths by broad age groups and usual residence. There were twenty-one deaths recorded that occurred outside the Islands where the body or ashes were returned to the Cayman Island for burial or disposition.

Table 5 gives a breakdown by month of death, gender and usual residence of these persons while table 6 gives information regarding their ages. Based on our records, ashes from 3 cremations were buried while 1 was released at sea.

Lastly, during 2001 there were a total of 4 still births registered at the General Registry. A female still birth was recorded for a twenty-six year old mother in April. A male still birth for a twenty seven year old mother in June and one still birth each in July and December for a twenty eight and twenty nine year old mothers, respectively.

Further details on any of the information contained in the report may be obtained from the office of the General Registry. Thank you very much, Madam Speaker.

The Speaker: Thank you, Honourable Member.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE GOVERNMENT

Question No. 29 (deferred)

The Speaker: Question No. 29. The Elected Member from the district of East End.

No. 29: Mr V. Arden McLean asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce, if the Government has entered into any discussions with other entities or individuals regarding the sale of Cayman Airways Ltd.

Question No. 30 (deferred)

No. 30: Mr. V. Arden McLean to ask the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce, what are the terms and conditions of the proposed entry of the Cayman Islands into the regional body known as the Caribbean Community or CARICOM.

The Speaker: The Honourable Leader, Minister for Tourism.

Standing Order 23(5)

Hon. W. McKeeva Bush: Madam Speaker, I would have to defer answering both questions twenty nine and thirty as the written answers were not prepared. However, I can tell the Member if he so desires but I prefer to put it in writing and so I beg leave of the House to defer answering the questions under Standing Order 23(5).

The Speaker: The question is that questions No. 29 and No. 30 be deferred until brought back to the House. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. Elected Member for East End I will permit you to ask question 30 to put it in the record. Question 30. The elected Member from East End.

Agreed: Questions Nos. 29 and 30 deferred.

The Speaker: Thank you.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

Cayman's first National Park in the area of Grand Cayman known as Barkers

The Speaker: I have received statements from the Honourable Leader of Tourism.

The Honourable Leader of Tourism.

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

I rise to inform this Honourable House on a matter which I am confident will receive the support of all Honourable Members as well as the general public. The matter to which I refer relates to the planned establishment of Cayman's first National park in the area of Grand Cayman known as Barkers.

Through the United Kingdom the Cayman Islands is party to a number of multilateral environmental agreements which place an obligation on us to create a national system of protected areas. In addition to the obligations placed on the Cayman Islands by the various international conservation agreements, this proposed project is consistent with the environmental charter which I signed on behalf of the Cayman Islands Government in London last year. The environmental value, geographic location, aesthetic appeal and cultural importance of the Barkers area make it an ideal candidate for our first such park.

It is envisaged that the Barkers Park would encourage appreciation for an understanding of Cayman's natural environment, thereby affording people the opportunity to make the connection between high environmental quality and their quality of life and so build and support for the concept of a national system of protected areas.

Last year the Department of Environment applied for and received a grant from the United Kingdom Government in the amount of 25 thousand 185 pounds sterling, to investigate the feasibility of the Barkers park concept. The feasibility component of the project is scheduled for completion in June of this year. So far, the Department has conducted an environmental inventory of the sight; mapped the environmental resources of the area and developed public outreach materials.

An initial valuation of the property within the proposed park boundaries had also been obtained from Lands and Survey. Land ownership information for this property has also been determined. The Department has also developed preliminary estimates of typical implementation costs that might be anticipated in establishing the Barkers National Park, broken down under four separate scenarios that corresponds the provision of increasingly higher levels of infrastructure, staffing and amenities over an initial three year development period. It is envisaged that initial funding for this project will be derived from the Environmental Protection Fund.

Yesterday Executive Council authorised the Department of Environment to proceed with the project's next stage which involves consulting the public in order to illicit peoples opinions and preferences on the concept of a National Park in Cayman at this time.

Public consultation will involve several stages. The first of which will be a public meeting at the West Bay Town Hall to disseminate information to local residents on the proposed National Park plan. Following this meeting, workshops will be held with stakeholder groups with whom it is anticipated the park will have an impact, to illicit their preferences and opinions regarding the National Park. Intended groups to be invited are the Cayman Islands Tourism Association and all businesses currently operating in the area. Focus groups and in-depth interviews will be set up for land owners and Elected West Bay representatives.

Running concurrently with the public meetings will be a survey directed at two groups; residents who live outside the West Bay district, and visitors. The survey is designed to illicit the public's opinion on the concept. All findings will be collated and summarised with the final report to the Government of the Cayman Islands.

Madam Speaker, in conclusion, as I have said previously, this project has the potential to assist the Cayman Islands in meeting obligations under a number of multilateral environmental agreements. In addition the Vision 2008 environment strategy (strategy

11) contains an action plan which calls for the protection of wetlands other than the Central Mangrove Wetlands, which are considered to be ecologically important through acquisition, utilising the environmental fund and then incorporating them in a national system or registry of protected areas. So, Madam Speaker, this project is also consistent with the wishes of the people as expressed in Vision 2008.

It is also important to note that the report summarising results of the West Bay District Development Plan Subcommittees vision for 2011, titled '*West Bay's Future*', has as a key objective: '**Preservation of the Barcus (Barkers) Area for Evermore and for Everyone by developing a large national park with absolutely no development at the Head of Barcus**'.

This project appears to already have the support of the community and as I have outlined, we intend to engage in even more public consultation on this issue.

If this park is established, it will form the cornerstone for the implementation of a system of protected areas in Cayman that will enrich the lives of all Caymanians and visitors for generations to come.

In addition, the park has the potential to generate sustainable income from the land based Nature/Tourism Industry. On site and outreach education for all generations would increase awareness and encourage appreciation and understanding of Cayman's wonderful, natural environment.

Finally, I wish to suggest that the development of this project is consistent with my 2000 General Elections manifesto. I quote from the environmental section of the manifesto. "**If the Cayman Islands are to continue on a steady pattern of economic development, we must consider carefully the options available and implement long term strategic plans to protect our fragile environment. Without planned development and proper growth management, our society, like any other will stagnate. Yet, too much accelerated and unchecked growth will potentially smother a society with uncontrollable risks. With the increasing feeling in the Cayman Islands that accelerated growth in the recent years and the resulting destruction of irreplaceable natural resources is leading the loss of the indigenous Cayman natural environment, this team endeavors to maintain a balance between development and its effects on our natural resources**". End of quote, Madam Speaker. This National Park also follows the resultant policy from this manifesto and the balance between development and the environment as I presented last year.

Madam Speaker, I commend this project to this Honourable House and look forward to the support to all Honourable Members as we continue to expand on and hopefully implement the concepts being developed by the Department.

Attached to this statement shows the area proposed park boundary and the current replenish-

ment zone in that area. It shows also, what the Barkers peninsula here in Grand Cayman consists inside the park, in the water, wildlife and other activities. Thank you very much, Madam Speaker.

The Speaker: Thank you Honourable Leader. I will also call on the Honourable Minister of Health who also wishes to make a statement this morning.

Extension of the Contract between the Government of the Cayman Islands and Baptist Health Systems of South Florida

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

Recently I responded to a Parliamentary question by the Elected Member for East End in which he asked and I quote, **“If a new contract or agreement has been signed or entered into between the Cayman Islands Health Services Department and the Baptist Hospital Group of Florida.”**

At the time I replied to that, as a temporary measure, a decision has been taken to extend the current contract under new conditions and that they were at that time being re-negotiated in an effort to secure more favorable rates for services provided.

Consultants from William M. Mercer Inc. contracted to advise the Government on establishing a sustainable self-funded health scheme and assisted the Ministry and the Health Services Department with the negotiations. A one year extension to the present contract was signed on the 15 March, 2002.

Some of the major issues and general terms that Baptist has agreed to are as follows;

1. Recoup overpayments on the part of the Cayman Islands Government. This provision will require both parties to correct under and over payments within 31 days of when they are identified.
2. Discount level. Based on the last three years of utilization and cost data we have calculated the average discount and instead of continuing the tiered discount arrangement, Baptist has agreed to simplify the contract by giving a fixed percentage discount for all claims.
3. Discount protection. Baptist has agreed to use their US fee schedule as the basis for charges.
4. Care Management. Baptist has agreed to assign a full time registered nurse to, on a daily basis to;
 - i Perform a clinical review of all inpatient admissions with respect to patients referred by the Cayman Islands.
 - ii Subject to the patients consent, provide the Chief Medical Officer with a medical status update on all patients referred by the Cayman Islands then in critical care; and
 - iii Visit all inpatients referred to them by the Cayman Islands to serve as a liaison between the patients and providers. Furthermore each

Friday and subject to the patient's consent, Baptist shall require this Registered Nurse to advise the chief Medical Officer of the medical status of all persons who are inpatients at Baptist during the week.

Finally, the Registered Nurse shall:

- (a) Assist inpatients referred by the Cayman Islands with discharge planning instruction.
- (b) Facilitate the issuance of discharge and consult summaries when such inpatients are discharged.

The last provision will give the Chief Medical Officer clinical information on a more timely basis, and allow him to participate in treatment decisions for patients from the Cayman Islands.

The Ministry of Health has received the first report and recommendations from William M. Mercer Inc. for implementing a more structured and sustainable self funded health scheme for Civil Servants, their dependents, public office pensioners, indigents and other persons for whom government provides medical benefits. They will be returning to Grand Cayman on the 27th and 28th of March to discuss the recommendations and decisions, which will be regarding the strategies to be followed. These strategies include the appointment of a third party administrator to:

- (a) Verify patient status so that claims are paid only for eligible beneficiaries.
- (b) To accurately adjudicate claims via an automated system.
- (c) To apply claim cost management system edits for things like duplicate bills, provider up-coding, provider unbundling, reasonable and customary charge limits et cetera.
- (d) To make claim payments of a timely basis.
- (e) To tract claim and utilization data.
- (f) To contract with a network of providers at discounted rates.
- (g) To offer care management programs to promote the appropriate use of health care services.

Although third party administrators generally charge administrative fees roughly equal to 10 -15 per cent of claims, the savings from claim costs management can be 10 - 15 per cent of claims. The savings generated from the ability to tract claim and utilization data and to make, design and program changes to address cost drivers cannot be quantified at this time. However, such management is an integral component of a sustainable program.

Madam Speaker, the Ministry of Health and the Health Services Department believe that we will be aiming to appoint a third party administrator by January 2003. It was not advisable to enter into another contract with a new provider of medical services overseas. This is especially true, as we expect third party administrator will be able to enter, on our behalf, into arrangements with several medical services pro-

viders of excellent reputation and standards at significant discounted rates. Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Minister. Madam Clerk.

GOVERNMENT BUSINESS

MOTIONS

GOVERNMENT MOTION NO. 1/02

The Development and Planning (Amendment) (Heights of Buildings) Regulations 2002

(Continuation of Debate thereon)

The Speaker: The First Elected Member from the district of George Town continuing his debate thereon.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker. When we broke on Monday, I had gone through various sections of the proposed amendments to the regulations, and perhaps, there is not a great deal more to go into detail about. However, I would like to spend just a few minutes in relation to how these proposed amending regulations will affect certain other areas, and to raise a few issues which I am confident the Minister will be able to reply to and clear up when he is winding up on the Government Motion.

There are, as I mentioned in my earlier portion of the contribution, two specific areas that I wish to speak to in this regard; that is, the Fire Prevention Code and the Building Code. As I understand it, the Fire Prevention Code is the regulations of the Fire Brigade Law - so to speak. There is also the Building Code, which is used as an integral part of the approval procedure for applications for buildings of whatever nature, whether they are single family homes, multiple dwellings, commercial buildings, condominiums or hotels, whatever.

We have had some informal discussions regarding the impacts that these proposed regulations would have on the Building Code and the Fire Prevention Code. I want to air a certain view that we have discussed (we, meaning the Opposition) and wish to put forward for the Minister's consideration.

When the Fire Prevention Code and the Building Code was being developed, some of us know about the bit of history of it and I can recall certain 'teething' problems for both of them but also in creating the two documents which were adapted from other documents; I cannot remember the exact name but if we look into the Fire Prevention Code of 1997, it refers to a certain North American document which the Building Code, for instance, has been adapted from - I believe, the South Florida building code. I think, other codes were tapped in upon to try to create the one

document that would suit what the technocrats thought was the best for our situation. When those two documents were created, they were created based on the existing laws and regulations. Those existing laws and regulations will be impacted by what is being proposed presently. So, in general terms, it is obvious that those two documents will have to be revisited to reflect the changes in the Planning Regulations so that they are in line also.

I understand from the Minister that the Building Code is being worked on and perhaps, as I have checked, between Monday and this morning, the majority of changes to the Building Code may well have been looked at. However, I can safely say that certain areas in the Building Code have not been looked at with a 'fine tooth comb' yet, simply because time has not allowed it, even though there may be some changes that are made. I know for a fact that the Fire Department is not satisfied that it has been gone through as carefully as it needs to be.

The fire prevention code itself, is not looked at yet and certainly there are going to be several aspects of that code which will have to be revisited and the appropriate changes will have to be made.

As I mentioned earlier, both of these documents that I am speaking to were developed with any type of building being constructed in the Cayman Islands, having a maximum height of sixty five feet to the soffit and a maximum number of five stories high. What is being proposed, as I understand from the document, that certain types of buildings will be allowed to go to seven stories high and a maximum height of eighty feet to the soffit. That is what I understand.

Let us take a minute to look at the fire prevention code. You see, there is a principle applied, which I am told by those who know, that buildings below seventy feet are referred to as height restricted buildings. When you go beyond seventy feet you refer to those buildings as 'high rise' buildings. So, we are moving from height restricted buildings at present to high rise buildings, once these proposed regulations are put into effect.

I want to quickly use three or four areas just to show the difference in the requirements, and it is important to note that these examples I will show are simply to prove the point that one needs to work with the other. I am satisfied that the Minister agrees with that. I do not think there is a question there; it is just a matter of getting it done.

Let us look, for instance, at the fire equipment which might be available, at the present. My understanding is that the truck with the tallest ladder is a 12 year old vehicle with a ladder that can go up to 100 feet. On the surface if you are not careful you might say that it is not a big deal then if a building is 100 feet high, but we have to look at it as if we were drawing a triangle because the fire truck cannot and will not be able to fight the fire right up along side of the building. For the ladder to be able to work properly and for ac-

cess to be gained you cannot simply climb vertically. So, the fire truck has to move away a little bit and then at the best leverage that can be used for the ladders there is an angle going up.

So, if we look at a right angle triangle and the vertical façade of the building is your line going straight up from ground level, then the ladder would be (I think the mathematicians call it) the hypotenuse, which is the longest side of any triangle. So, if your height is 100 feet, for instance, if your height of your triangle which is your building height, then you would need a ladder that is more than 100 feet to be able reach at the angle. At 80 feet it is workable for a hundred foot ladder but there are going to be problems if we try to go beyond that; that is from the point of view of being able to utilise the fire truck. That point needs to be made and made clearly.

Now the fire truck and the ladder are not just to service holding a hose to try and out a fire. There is also an evacuation tool, depending on what the specific circumstances are; depending on exactly what it is. I know that when we speak to other jurisdictions and other high rise buildings, we have buildings that go up over 100 stories and there is no fire fighting equipment which has a ladder that can actually do that; I understand all of that. However, you see, when we speak to our own particular situation and the type of equipment being used, it brings home the point, that if you only have limited equipment to be able to perform certain tasks in the case of a fire, then you also have to look at how your building is constructed when you speak to the safety of the occupants.

For example, if you have a seven story building that is built; whatever it is, whether it be a hotel or an office building or a condominium, however it is. Depending on the type of building it is, is largely dependent on how many bodies would probably be in the building at any one given time. The most densely populated one would most naturally expect to be a hotel. Let us use any one of them and if there were a fire on, let us say, the fourth floor; your fire fighting equipment would easily be able to access that floor to try to fight the fire, either from outside or perhaps depending on where the fire is, the fire fighters may have to go inside of the building for two reasons:- 1) To fight the fire; and 2) To get the people out.

Simple basics! The way that a building is constructed, if there is a fire on the fourth floor you have to have certain guarantees that the construction of that building allows for it to be fire resistant for a certain length of time; to either be able to have the fire men go in safely to fight the fire and or, to go in, and they will probably have to get beyond that fourth floor to help to evacuate occupants of the other three floors up above. If the building is not secure, it is possible that the fire might make that fourth floor collapse and then everybody is in trouble. I do not want to think any further than that but I used the example to make the point.

What the requirements are for up to five stories now will certainly have to reflect more stringent requirements if we are going up to seven. So, it has to be addressed. In making the presentation there is no suggestion that the technical people are not aware of this. When I am through with my line of argument the points will be clear, as to the direction in which I am headed.

So, in using those examples what it displays is the fact the both the Fire Prevention and Building Codes speaks to five story buildings and 65 feet maximum height to the soffits, and we are now proposing to go to eighty feet to the soffits and seven stories. This means that both of them has to be looked at carefully and certain expertise is going to have to be tapped in on, so that you can specify very clearly and articulate it in those documents exactly what the specific requirements are going to be. In doing this it should reflect the structural integrity of those buildings, to be able to be fire resistant for whatever periods of time are determined, to be correct and manageable in order to be able to deal with matters that might come in case there is a fire.

It also has to look directly to the Fire Service and the type of equipment that they must have. While we may be speaking to efficiencies and Government spending we cannot wait until the fire starts, to order the right equipment.

There is another matter also. If we are going to have certain types of buildings being built here, we are going to have to look very closely at personnel and; at training. I know that the Fire Service is certainly in good shape when it comes to their officers being trained but, I am also fairly confident that the type of training that they have at present, even though it might exceed what the requirements are; certainly, they would have to be looking very carefully at what the new requirements maybe for training and equipment, and also the number of personnel.

Again, this is simply the case of prevent rather than cure and you cannot wait until a catastrophe occurs to be able to say, well, this is exactly what we should do and then you speak to hiring how many people you have and training them, and necessary equipment.

I am certain that all of the things that I speak to have been thought about, but I am lining them up by showing exactly what I think need to be done.

When we speak to the Building Code and the Fire Prevention Code, we speak to new evacuation procedures. We speak to certain types of sprinkler systems, which would automatically trip in when there are fires. The higher the building; the more stories the building has, it is obvious, the longer it will take to evacuate people from the building because they have a longer distance to travel to get to safety. This means that whatever the requirements would have to be for those types of buildings, in the secured area allocated within that building for people to be able to evacuate, it is going to be expected for that specific area to be

fire resistant for a longer period of time than what is required now. It is only natural that it would take longer for them to evacuate. So, those are the things that we have to be looking at very carefully.

I say again, I know that the Building Code has been examined and I know that personnel from both the Fire Department and the Planning Department have looked at that. However, I venture to say that not all of them are quite satisfied that it has been looked at as carefully as it needs to be looked at. The Fire Prevention Code has not been looked at. We have to be looking at what equipment may be necessary and we have to be looking at the personnel and training in that area. There are other aspects to be looked at but I just choose those areas to speak to the relevance of having to re-examine these situations.

So, what we have in front of us are proposed amendments to the Regulations and it is specifically called the Development and Planning (Amendment) (Heights of Buildings Regulations), and ideally what needs to happen is that whenever these Regulations are to come in force then the other matters need to be addressed simultaneously. We the Opposition hold the view that we do not wish to speak to not supporting these amendments, because we have gone through them; we see the merits and we see what is desired. What we are saying is that we want the assurance that these regulations are not going to be put in force until the other matters are addressed and once everything is lined up, all the ducks are lined up then everybody can be satisfied that what has to be done, has been done and everyone can move forward together from the various areas.

There will also have to be changes via this Legislative Assembly to Laws if it is looked at carefully. There are certain areas that have to be addressed so that what reflects in the documents proposed now will reflect in the other documents. I am not going to go into a lot of details with that but that can be looked at. So, those tidying up exercises also need to be looked because there is a question of possible liability here. Whenever lives are at risk or the possibility of lives being lost exists, there is always a question of liability, and it is incumbent on this Legislator to ensure that all of the legislation that is in place is in sync. Otherwise, if you have conflicting legislation then it is a pile of problems. I certainly know that those in here who speak to the legal terms (including your self Madam Speaker) will understand the point that I am making even though I may not have used legal jargon to explain it.

So, what we are seeking is to just have the assurance from the Government that we are going to get everything lined up and put in place in tandem. I think, not only will the various agencies who are worried at present—some of them are worried; simply because they want it right. Once all of that is done then I think everybody will be satisfied that we have made the right decisions and we are moving forward in the right directions.

Madam Speaker, one more point that I wish to reiterate is when we speak to the cemetery to cemetery situation on the seven mile beach. If I understand what is being proposed correctly, in a hotel/tourism zone, both hotels and condominiums will be able to move to seven stories high with a maximum height of 80 feet to the soffit. The difference is, there is an increase being allowed in the density for the condominiums, and I believe, if I remember correctly, that increase is five units per acre, but there is no increase in the density allowed for hotels. Whatever the figure is; if it is 65 rooms per acre that was allowed on property within these boundaries zoned for hotel/tourism before, for a hotel, then, it is the same amount that will be allowed per acre. That is perhaps the biggest reason why we are able to support going to 7 stories. What it means is that there need not be any tremendous impact on the infrastructure that exists at present. What it also means is that it will allow, by being able to go up higher, to have more land mass for central facilities, for parking and also perhaps, when we look at it, to be able to have (should I say) more depth when it comes to beach and beach access.

So, all in all I think our views have been put forward in a coherent fashion. I trust that it is understood clearly exactly what we seek when we have made the various points and once the Government is able to see the merits of those points and is able to respond in a positive manner then certainly Madam Speaker, we will find comfort in supporting the Government Motion. Thank you.

The Speaker: Thank you. At this time I will take the morning break.

Proceedings suspended at 11.29 am

Proceedings resumed at 12 noon

The Speaker: Proceedings are resumed. Does any other Member wish to speak? Does any other Member wish to speak? Last call, does any other Member wish to speak? If not I will call upon the Honourable Minister responsible for Planning, Deputy Leader, to respond.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

I would like to take this opportunity to reply to the many important issues raised by the Honourable First Elected Member for George Town during his debate, on behalf of Her Majesty's Loyal Opposition. According to my notes the Honourable Member had concerns with several issues, many of which I concur on so I would just like to deal with them in the order, I believe, in which they were mentioned during his debate on this Motion.

The first issue I had here was dealing with the increase of five additional apartments per acre for apartments in the hotel/tourism zone. My response is

that this additional density was seen as a means of giving developers an incentive to develop some of the older properties and to also stimulate additional construction. It was also an endeavour to provide some compensation for the increased set backs.

Another point raised was the increased height of hotels which would have an impact on the Esterly Tibbetts Highway, the corridor leading from the airport area onto the seven mile beach area. The increased height for hotels will have some impact on the highway, however, it is Government's intention to have the highway constructed through to Indies Suites within the next five years and this will give us the required road capacity. In the entry Government does not believe that the height increase will significantly impact the roads along the West Bay corridor. We remember most of the land along the beach side is already almost fully developed. So, any new development will be primarily redevelopment and this will indeed take some time. However, since there are no corresponding increases in the number of rooms per acre; it remains at 65 per acre, therefore it will only mean that properties will now be able to achieve the maximum density.

Of seven hotels built in the last twenty years, there is only one which was developed to its full density and I would just like to make reference to that. The Comfort Suites is built on 1.8 acres. They were allowed 117 rooms but built 110 thus using on a ration of .94 of the allowed number that they could build on. The density on this basis is therefore 61, so they did not reach the 65 per acre. As I mentioned there is only one of these numbers of seven that went perhaps a little over that ratio.

The Hyatt on the beach is also on 1.8 acres and they were allowed 117 rooms but only built 53, thus the density is 29 rooms per acre.

The Sunshine Suites built on 6.3 acres allowing them 410 rooms under the law but they only built 132; utilising an average of 21 rooms per acre. Way below the 63 per acre.

Holiday Inn, the new one is on 10.5 acres, they are allowed 683 rooms under the current law but built only 231 room thus utilising 22 rooms per acre.

The Marriott is the only hotel on that area that went slightly over the amount allowed under the Law. They are built on 4.6 acres and that they were allowed 299 rooms but built 309 rooms so they went over by .03 and the rooms per acre in that case were 67.17 instead of the 65.

In the case of the Westin Hotel, they are built on 7.8 acres which would have allowed them 507 rooms total but they built 365 thus having a density of 47 rooms per acre.

The Grand Caymanian is built on 6.7 acres which would have allowed them 436 rooms. They built 198 rooms, also showing a density of 30 rooms per acre, way below the 65 rooms per acre.

This gave an average room per acre on the seven mile beach of 35.4 rooms per acre, which is

way below the 65 rooms per acre. So, it shows that even though the law as it stands allowed an increase in density up to 65 rooms per acre except for one hotel, none of the hotels on the seven mile beach have gone near that and the average density is 35.4 rooms per acre, way below the 65 allowed under the Law.

This situation of an average of the 35.4 room per acre is due primarily to height restrictions and the developers having to provide other onsite amenities. Being able to achieve maximum density will also mean that developers will be able to utilise economies of scale, and therefore make the jurisdiction more competitive. I am sure this is something the entire Island would want to do.

On the question of parking requirements as a result of the increased height, Madam Speaker, increasing the height of building in the GC-1 will not necessarily result in an increase in the number of parking spaces. Developments will still be expected to comply with the minimum requirements of the regulations. What it will do is enable developers to provide parking at grade plus any number of floors, if they so wish, and still have x number of floors for rental space. It will also result in sites being able to provide more parking on site as only 25 per cent will be allowed off site.

As an incentive to tenants developers will have greater flexibility in the amount of parking provided and may even result in developments providing excess parking. This excess parking is the amount that exceeds the minimum requirements; that is, Madam Speaker, one space for every 300 square feet outside OPY and one space for every 500 square feet within OPY. OPY is the triangle formed by Mary Street to Shedden Road and then back to Harbour Drive and North Church Street.

The point was also raised in regards to the impact of measuring setback from low water mark to the high water mark. Depending on the location of the site, the impacts will vary. For example, along Seven Mile Beach the difference between the two is about ten to fifteen feet (that is between low water and high water marks). This is because the slope of the seabed is steep. However, in other parts of the Island where the slope is more gentle buildings will have to be set back further from the sea. These sites will be compensated with increased building heights. The idea being that what is lost horizontally will be gained vertically.

I would like to remind Honourable Members of the recent passing of hurricane Michelle and the severe damage it caused to the western coast of the Island. This should be sufficient reason for us to revisit our regulations for set backs from the sea.

In regards to high rise buildings *vis-a-vis* our fire fighting capabilities, I would like to thank the Member for bringing up this most important issue. However, Government is cognisance that we cannot amend one set of regulations without amending complimentary legislation. We are therefore currently working with the

Fire Service and I hope to bring building code amendments to this Honourable House during the June 2002 Meeting of the House at the latest. It might also mean minor amendments to the Fire Brigade Law and I will work with the Leader of Government Business who is responsible for that department, in that regard. The main details that remain to be worked out relate to three areas, firstly;

What is called dry risers - a dry riser is a four inch pipe in the stairwell of buildings that allows fire fighters to connect the fire truck to the ground floor connection and then the fire fighters can connect hoses at each floor. They are always dry except when there is a fire and are connected to the fire truck. In addition;

There is always required a sprinkler system and these are sprinklers in the ceilings of buildings and are connected to a fire pump system.

Is what is referred to as wet riser, and they are similar to the dry risers but always have water and are connected to the sprinkler system.

I have made this point to show that there is no need for any fear of a building going up to 80 feet because the fire department may not have the necessary equipment at present. Already these requirements of dry risers and wet risers are within the CPA or purview and they are already putting these in place. I also understand that very few of the firemen will, in any case, want to fight a fire at a 60 foot level above the ground. So, I believe that when we take this into consideration we also take the point into consideration that when we go abroad and see buildings 50, 60, 70, 80, 90, 100 stories, that it is impossible for fire men to fight those fires from a ladder regardless of what level or what angle that ladder is placed on. There are other means of fighting fire other than with a fire truck and going up on a ladder with a hose to fight those fires.

All newer buildings usually have one or a combination of any of the three systems which I have just mentioned. That is the dry risers, sprinkler system and wet risers; therefore it is not necessary to have fire trucks that can physically reach to the top of high rise buildings once there is other fire fighting equipment on site.

Yesterday the question of the submission of seven story plans now without supporting code provision was also raised. The question raised was: what happens if a potential developer submits a plan at this point but the code and fire requirements are not in place? I accept that this would create some cause for concern however, it is almost impossible for a firm to prepare a set of plans for a set of seven story complex, obtain planning permission and start producing the construction drawings within the next three months. Within that time, as I have said earlier, we hope to have all the necessary ancillary and complementary legislation in place. If someone is capable of doing that then they can refer to the 1999 version of the standard building code because it is this version

that the House will be asked to approve shortly. So, there would be legislation or regulations in place.

Another point raised was under parking requirements in and outside of OPY. These amendments are those that were determined by the Central Planning Authority to be the most urgent. A comprehensive review of the Planning Law and Regulations is slated to be completed by year end or early next year. At that time, if Honourable Members wish that we could increase the parking requirements I would be more than happy to consider that request. Conversely, Madam Speaker, if Members are so minded, I would now instruct the Central Planning Authority to prepare the necessary amendments to be submitted also at the June Meeting. However, this is a matter I can speak with the Members about after I finish my contribution here.

This notwithstanding, I am fairly confident that we will not see too many, if any, new seven story buildings in the OPY area in the immediate future due to the current supply of office space on the market.

Another point raised was the minimum set back of the 6 foot in the commercial and industrial zones. The Honourable Member said he had some difficulties with this amendment since the Central Planning Authority could, at its discretion, adjust it up and down. That is the case at present under the law. This provision is currently under the law and since 1977 setbacks in commercial and industrial zones were always at the Authority's discretion. However, if we do not give the Central Planning Authority that discretion and someone wishes to develop a zero lot line (that is right at the boundary) they will not be able to do so. We have certain developments like that currently on the Island. The former Royal Bank building, Barclays Bank and the Bata Shoe Store building are all developed on the boundaries.

With the cost of land, the Government has to make it conducive to maximise their returns. Further developers will see greater utilisation of land since we have a finite amount of land for such development.

Another point raised was increasing the width for access through a mangrove buffer from 75 feet to 100 feet. I would like to thank the Member for supporting this amendment and he quite eloquently explained the justification for it, therefore, I will not take any more time from the House in expanding on this.

Land for public purposes referred to as LPP was formally known as public open space. The First Elected Member also had some concerns with this particular clause, which is Clause 9 (2) (b), namely that existing land owners need not be notified if the developer of a subdivision wanted to divest of the land for public purposes. I am reliably informed by the Chairman of the Central Planning Authority and the Director of Planning that the current practice is for land owners to be notified and the developer has to obtain a majority consent order before the Central Planning Authority would delete or reduce the amount of land for public purposes in a subdivision. This prac-

tice is to be continued. Again if Members so wish, I can, at a subsequent meeting consider an amendment so that it is a legal requirement for land owners to be notified and consent given before any changes are made to the status quo.

On the question of a fund, I think the Member mentioned a segregated fund for the LPP, which I refer to here as the land for public purposes (LPP) fund. Madam Speaker, the Ministry supports the establishment of such a fund, to ensure that the monies raised from the sale of these LPP sites will be used for the intended purposes. Again, I would be more than pleased to consider an amendment that would include inserting the requirements for an establishment of such a fund.

The excavation fee—currently an application fee for excavation can be in excess of \$100,000; depending on the size of the excavation. If the application is refused the fee is lost, as application fees are non refundable; that is the position at present. In the past Executive Council has made arrangements with applicants to pay on terms but this has proven to be administratively inconvenient. However, the proposed arrangement is that there will be a processing fee and a royalty fee. If the application were refused the applicant would only lose the \$1,000 in the case of Grand Cayman or the \$00 in the case of Cayman Brac and Little Cayman. If it is approved, the applicant would then enter into an agreement with the Central Planning Authority to pay the royalty in instalments. This would make the system more equitable for all concerned.

Madam Speaker, I believe that I have touched on most of the points raised by the Honourable Member. So, all that remains now is for me to thank the Honourable Member for that very good contribution to this Motion, and all other Members who, even though they did not speak on this, has given their tacit approval to this Motion. Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Minister.

The question is that the draft Development and Planning (Amendment) (Heights of Buildings) Regulations 2002, having been laid on the Table of this Honourable House, be hereby approved by the Legislative Assembly in accordance with the provision of section 45(3) of the Development and Planning Law (1999 Revision). All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Government Motion 1/02 passed

The Speaker: Honourable Members it is now 12.30 pm is it the wish of the House to take the luncheon break or should we commence on the next Motion?

We shall now rise to suspend for the luncheon break and reconvene at 2.15 pm.

Proceedings suspended at 12.26 pm

Proceedings resumed at 2.30 pm

The Speaker: Please be seated. Proceedings are resumed.

Suspension of Standing Order 24(5)

The Speaker: Honourable Leader of Government Business.

Hon. W. McKeever Bush: Madam Speaker, I move the suspension of Standing Order 24(5) in order to take the Motion before the House at this time.

The Speaker: The question is that Standing Order 24(5) be duly suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 24(5) suspended to allow Government Motion No. 2/02 to be taken without the required five clear day's notice (SO 24(5)).

GOVERNMENT MOTION NO. 2/02

CARICOM Associate Membership

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Madam Speaker, I beg to move the following Motion: Government Motion No. 2.

“WHEREAS Cayman has held Observer status within CARICOM for several decades now and the Government is desirous of advancing that status;

“AND WHEREAS the Government of the Cayman Islands had made an application to CARICOM to become an Associate Member;

“AND WHEREAS the 13th Inter-Sessional Conference of Heads of CARICOM, held in Belize 3-5 February 2002 resolved to accept Cayman's application for Associate Member status within CARICOM under the terms and conditions to be attached;

“AND WHEREAS the Cayman Islands' participation and the regional sub-grouping of CARICOM will provide the greater benefit deepening co-operation thereby strengthening the collective ability of the region to influence the international approaches taken to resolve global issues such

as international taxation and money laundering which directly affect Cayman's economic viability;

“AND WHEREAS Associate Membership within CARICOM will provide Cayman with direct access and participation on the community's subsidiary bodies, organs and its various programmes except those relating to Foreign Relations;

“BE IT NOW THEREFORE RESOLVED THAT the Legislative Assembly agrees to support the acceptance of the offer of Associate Membership within CARICOM under the terms and conditions attached by the community”.

The Speaker: The Motion has been duly moved and is open for debate. Does the Honourable Minister wish to speak thereon?

Hon. W. McKeeva Bush: Thank you, Madam Speaker. There is the saying that ‘no man is an island’; this simple truth has become increasingly applicable to these, our beloved Islands, as we have become encompassed in various initiatives.

The fact is, that the Cayman Islands has not had to go out and search for such issues but rather these initiatives have found their way to our shores by their very scope; these initiatives has already demonstrated an ability to impact our interests on policies. In matters of great magnitude such as international taxation and money laundering, there are very real implications for industries in the Cayman Islands. As a developing country, particularly one with a mature international financial centre, Cayman must not pursue isolation but we should rather engage in dialogue with appropriate groupings, which will allow our small country to pool and leverage of our voice on matters of mutual concern.

By way of this Motion, the Government recognises that the time has come for Cayman to strengthen its ability to contribute to discussions and tackle challenges which relate to our own interests. Consequently this Motion seeks to advance the Cayman Islands long standing status as an observer within CARICOM to an Associate status, allowing Cayman to gain certain privileges. While information on this matter has already been widely disseminated, for clarity, I will reiterate the numerous benefits linked to gaining Associate Membership including the following:

1. Representation in forums and meetings currently not available directly to the Cayman Islands, such as the World Bank and International Monetary Fund.
2. Increased bargaining power and issues of common concern to CARICOM and the Cayman Islands like the OECD matters; CARICOM has established regional negotiating machinery for that purpose.
3. Participation in the various programs and working groups of CARICOM on issues such as AIDS,

tourism development, disaster recovery, agricultural research, cultural development and drug interdiction efforts.

4. Direct access to technical assistance in areas mentioned previously.

Let me now say—should there be any lingering misconception about what Associate Membership means for the Cayman Islands—that there would not be any free movement of CARICOM nationals, goods or services across Cayman borders. There is no requirement for Cayman Islands to participate in the Caribbean Single Market and the economy. In this forum Cayman would not speak to foreign affairs, a responsibility which we all know is reserved for the United Kingdom. When contemplating this action the Government previously sought and received the support of the United Kingdom Government.

I see this as a very important development, as it will allow the Cayman Islands to move in tandem with others when there are international issues which affect the region as a whole.

One of the issues currently under discussion with the region is about it becoming part of the free trade agreement of the Americas and this is a proposal by President George Bush and will bring together a region with some 800 million persons if and when that proposal is finalised.

The Caribbean region has been seeking certain assurances to protect small countries and stand to enjoy benefits from inward foreign investment and other special benefits, which the members of the free trade agreement countries will participate in. It is extremely important that we are not left out of the loop as there may possibly be significant benefits to our people. I believe a voice with our neighbours on issues which affect the region, can only have long term benefits for our country and our people.

With the consent of this Honourable House the Cayman Islands will be among those overseas territories who have previously obtained Associate Member Status. In-fact, Madam Speaker, overseas territories such as Anguilla, the British Virgin Islands and Turks and Caicos Islands, already sit in this capacity, and I know that Bermuda has been accepted as well. As an Associate Member the Cayman Islands will be bound to identical terms as the other overseas territory members whereby we will be allowed to attend, to precipitate generally but not to vote and not to participate or take position on matters that are reserved for the United Kingdom.

For the sake of the record (to put on record) I want to read the agreement between the Caribbean Community and the Government of the Cayman Islands. This is what the agreement says:

“The Caribbean Community (herein after called “CARICOM”) and the Government of the Cayman Islands:

“HAVING REGARD to Article 231 of the Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the CARICOM

Single Market and Economy which provides for Associate Membership of the Community;

“RECOGNISING the present constitutional restraints on the capacity of the Government of the Cayman Islands to participate in the decision-making process of CARICOM on matters relating to defence and foreign affairs;

“BEARING IN MIND the existing and the possible further involvement of the Government of the Cayman Islands in areas of functional co-operation within CARICOM;

“ACKNOWLEDGING that the Government of the Cayman Islands has received the relevant Instruments of Entrustment to enable it to participate as an Associate Member of the Caribbean Community;

“HEREBY AGREE as follows:

“The Cayman Islands shall, in accordance with the decisions of the Conference of Heads of Government of CARICOM taken at its Thirteenth Intersessional Meeting held in Belize City, Belize, during the period 3 to 5 February 2002, become an Associate Member of CARICOM subject to the following terms and conditions:

- i the right of attendance by the Cayman Islands as an Observer at Meetings of the Conference of Heads of Government and the Community Council of Ministers;
- ii the right of participation (without the right to vote) in the deliberations of the Organs and Subsidiary Bodies of the Community, with the exception of the Council for Foreign and Community relations, in order to promote the interests of the Cayman Islands in specific programs and measures, including the right to propose programmes and measures or the modification of programmes and measures as well as to share in the benefits of all CARICOM regional programmes and measures, whether proposed by the Cayman Islands or not. It is mutually agreed and understood that the Cayman Islands will not participate in the discussions relating to Foreign Policy issues and any other organ of the Community;
- iii accession by the Cayman Islands to the Protocol on Privileges and Immunities of the Caribbean Community and other relevant Community Instruments, and enactment of national legislation necessary for conferring the required status upon the Community in its national jurisdiction;
- iv acceptance by the Cayman Islands of the Caribbean Community travel document (*laissez-passer*);
- v pursuant to the related provisions of the Treaty establishing the Community as amended, decisions of the concerned Organs and Subsidiary Bodies would continue to be

based on the action of the existing full Members of the Community;

- vi the required quorum for meetings of the concerned Community Organs and Subsidiary Bodies would continue to be based on the existing full Members of the Community;
- vii payment of an appropriate contribution to the budget of the CARICOM Secretariat.”

That ends the agreement. So, Madam Speaker, with the support of this Honourable House the Government seeks to accede to associate membership in May 2002 when the Caribbean Development Bank Annual Board of Governors meets in Grand Cayman.

I proposed this venue for this document to be signed here in the Cayman Islands and that was done by the President of Caribbean Development Bank, the Chairman of CARICOM, the Honourable Said Musa, Prime Minister of Belize, and they agreed not to have a signing in Belize but to have the signing done here as I requested.

I think it most fitting that such a significant event should take place locally where all persons and all Members of this Honourable House could be a witness. Also I would like to take this opportunity to express my gratitude to those who have worked so hard to bring this to fruition. Over the past many years this was the responsibility of the Portfolio of Finance and Economic Development. The Deputy Financial Secretary, Mr. Joel Walton was the person who usually attended this meeting with me. In fact we attended it in the Bahamas last year and in Belize earlier this year.

So, Madam Speaker, we ask Members to agree to the resolution. Thank you very much.

The Speaker: Thank you, Honourable Minister. Does any other Member wish to speak?

The First Elected Member from the district of George Town.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker.

In looking at the agreement, I think there are just two questions which we would like to make very clear in our minds, as we really have not had a chance to take a long look at it or do any research.

In principle I do not believe that any one of us have any problems with the Cayman Islands acquiring Associate Membership of the CARICOM body. However, when we look at the agreement, there are two sections as I mentioned. On page 2 of the agreement, number three in italics, I would just like for the Honourable Minister in his reply to expand on what we are dealing with when we speak to: ‘the enactment of the national legislation necessary for conferring the required status upon the community in its national jurisdiction’. Obviously for those who are familiar with CARICOM perhaps this might be very clear, but it is not absolutely clear to us and we would just like to make sure that we have a full understanding of exactly what it is.

For clarity, the other question is where it states: 'acceptance by the Cayman Islands of the Caribbean Community travel document (laissez-passer)'. I think that is how it is pronounced. (inaudible interjection) That is close enough I believe, Madam Speaker. Again, we would just like to be very clear with regards of what the Caribbean Community travel document is and it is simply for purposes of clarity. I think the other sections are straightforward to all of us but if we could have explanation of those two items just to be absolutely clear, the Opposition would be very grateful before the vote is taken. Thank you.

The Speaker: Does any other Member wish to speak? The Elected Member for the district of East End.

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

I rise too like the First Elected Member from George Town to give a short contribution to this Government Motion on CARICOM Associate Membership.

Madam Speaker, it is like what the First Elected Member from George Town said; it has been recognised a very long time ago within the Cayman Islands that maybe the networking of all the Caribbean States would be a very good thing on the world stage, as well as within the Caribbean. We all know in the 50's the Federation started and it fell through but certainly times have changed and, in particular, when there are issues such as the Organisation for Economic Co-operation and Development (OECD) and Financial Action Task Force (FATF). I believe, it would be a very worthwhile thing to be able to network and know exactly where everybody is going.

When we speak about tourism we cannot operate in isolation as the Cayman Islands, when it comes to tourism in the Caribbean. Therefore, I think there will be benefits derived from it.

The First Elected Member from George Town spoke about the acceptance by the Cayman Islands of the Caribbean Community travel document. I too, have some concerns with that. I recently was informed that the Organisation of Eastern Caribbean States (OECS) was debating that same issue in their membership states. The Second Elected Member from George Town and I, had the opportunity to travel to the Island of St. Kitts recently, during the long break we had last week, which we did on our own in trying to find out what free movement was all about within the OECS States. Certainly, the OECS States are not as expanded as CARICOM but I believe, in essence, the movement within CARICOM would be similar.

It was interesting to hear the St. Kitts Parliament debate that issue. I believe to some extent it was reduced in content and in the extent free movement will be agreed upon from what the original intent was and I was very pleased to hear that the OECS is a little different. Their interpretation of free movement within the states is a little different from what I thought

it was. It certainly is more restrictive than we initially understood.

My understanding from the OECS, as a result of that debate in St. Kitts, is that it is restricted to the point where it is similar to the US Immigration policy where, if you enter into America and you are considered of good standing, you will be stamped 6 months to stay within America. However, it does not prevent the work permit provisions from coming into play. The same is going to happen with the OECS states, whereby, I think most of them already had in their Immigration Laws that the Member State citizens could be issued by the Immigration Officer, up to 6 months entry visa. That is now changing where they shall give 6 months. It does not give that citizen of the other state the right to work within that state. What it does is give that citizen the opportunity to stay there unmolested for 6 months. They do not have to get their time renewed, and if by chance they get the opportunity to apply for a job, their prospective employer then have to apply for a work permit. Prior to that, I believe it was thought that free movement meant you could come in and work unrestricted within the other country and that is not so; not within the OECS states.

Now, the OECS is governed by a different organisation than CARICOM. Therefore, I think it is only fair and reasonable to ask the Government to explain to us (the Opposition) and the country, exactly what condition (iv) means, which states: "acceptance by the Cayman Islands of the Caribbean Community travel document". As part of that there is also within the OECS where they are going to develop a travel ID for all their citizens so that when it is presented it is recognised. There will be no need for the other travel document such as the country's passport.

Rightly so, I think the argument of the Opposition in St. Kitts was surrounding the concern of their own people losing jobs, and I believe that concern would be right at the forefront of the people of the Cayman Islands, as well. Certainly, it is a concern of the Opposition that the technicalities in how this is going to work has to ensure that the Caymanians are not put out of jobs and so on. I believe that the St. Kitts Opposition was quite clear in trying to determine how that is going to work. Likewise, I believe that we need to determine that also.

The conditions as was circulated earlier, and if I may pause here, Madam Speaker, because I am just a little bit baffled as to how a question that I submitted over a month ago could not be answered and had to be deferred but within three hours we have the conditions circulated. Nevertheless, I welcome these conditions that have now been circulated albeit immediately prior to the debate.

I am just reminded by my colleague about condition (iv), and I wonder if the Government understands or is in possession of any total conditions; if it is the same thing as the OECS or is it different with regard to travel amongst membership countries. I trust that the Minister in his reply will give us the informa-

tion necessary because as we can appreciate condition (iv); it can mean a lot of things.

Certainly, I agree and I know that if we have to accept it then they would have to accept ours because if not, then we certainly will not be accepting theirs and recognising any other country that does not recognise us as Associate Members.

The other section that I thought needed some explanation on is (vii), which I would respect some explanation on this. That section states: "payment of an appropriate contribution to the budget of the CARICOM Secretariat". Now we have heard many times that Cayman is not privileged to any special concessions, particularly when we are borrowing money where we have to pay premium rates, and some believe that is a result of our own success. It would be interesting, and I am sure, that it would be appropriate for the Government to let us know what that contribution is that the Cayman Islands have to make to the CARICOM Secretariat, if they have that information.

Madam Speaker, as I said earlier, I believe that in the interest of a Caribbean Community partnership and networking, becoming an Associate Member is not all that bad. Certainly, the conditions must be looked at. We must ensure that the Cayman Islands will also benefit, not only from the networking and being amongst friends, having unity, which makes strength, but also to see what kind of effects it is going to have on the people of the Cayman Islands with regards to the travel within the Member States. In particular, the travel into the Cayman Islands; what those conditions are; how will the Cayman Islands benefit as a result; and last but not least, how will we be able to travel throughout.

I would like to think that the travel document of the Caribbean Community, which I suspect, that their travel document would have to be recognised by some symbol or whatever to be able to recognise it within the CARICOM States. I know that in all the CARICOM States when entering Immigration you will see a 'CARICOM State Members' line and that is a specific line. As an Associate Member will the Cayman Islands people be required to walk through these lines? Will there be a special passport? Will there be a special identification? All of these things, I think the people of the country needs to know. In the absence of all these things if these are not forthcoming I would venture to say that this may be a little premature to bring the Motion and ask for acceptance by this Legislature.

I believe all these things needs to be explained, not only to the Opposition, but more importantly to the people of the country, as to how it is going to work; what they can expect and what is expected of the people of the Cayman Islands. We are but a few, and the people need to know what to expect. I believe, if these are not forthcoming then, as I said, this may be a little premature and I would ask the Government to step back and wait until we are

certain as to what these conditions mean; certain to the point that it is acceptable by the people of the Cayman Islands. Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak?

The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker for this opportunity to offer a few additional comments on behalf of the Opposition in relation to this Motion.

I believe that the Opposition is fully supportive of the Cayman Islands becoming more closely associated with our Caribbean brothers and sisters. We are also supportive of the move by the Cayman Islands Government to take the Cayman Islands out of the era of what I may term 'splendid isolation in the Caribbean'.

It is, I would note, an initiative which was begun when the First Elected Member for George Town was Leader of Government Business and I am pleased that the new leader and his Government have seen fit to continue to pursue this matter. However, like the First Elected Member for George Town and the Elected Member for East End, I have some concerns at the dearth of information that has been generally available to Honourable Members of this House and to the wider community in relation to the terms and conditions, consequences and ramifications of the Associate Membership of the Community, which this resolution seeks to effect.

As the Elected Member for East End indicated, I accompanied him on a trip to the Federation of St. Kitts and Nevis, and we had the opportunity to attend Parliament and listen to some of the debate on the issue of free movement amongst the organisation of the Eastern Caribbean States. We also had the opportunity to attend a public meeting where Members of the Cabinet of St. Kitts and Nevis answered many questions and addressed many concerns of the citizens of that Federation, regarding the consequences of free movement.

The question as to whether or not Members of the Caribbean Community will be able to travel to the Cayman Islands and stay for extended periods of time, or indeed, to work in the Cayman Islands as a consequence of this agreement, is one that the Government must address.

Members of the Opposition are certainly in favour of, as I said earlier, strengthening the ties and embracing other Caribbean nationals, but we can only do so to the extent that it is not to the detriment of the Cayman Islands. We certainly, in my respectful view, cannot at this stage, in a situation where the Cayman Islands is still perhaps one of the most attractive places in which to live and work, agree to provisions which would have the effect of causing the Cayman Islands to be required to permit persons who come

from the wider Caribbean Community to work here without restrictions, simply as a result of the signing of this agreement.

To pursue the point raised by the Elected Member from East End, that is why it is absolutely critical that the people of this country and in the first instance, the Government of this country understands what is meant by clause (iv), that is the acceptance by the Cayman Islands of the Caribbean Community travel document (*laissez-passer*). We need to know and if the Government knows, we need to know what they know about what this particular provision means. I do hope that at this point the Government has understood what that means and if they have, Madam Speaker, we certainly would be most grateful to be enlightened by them.

The First Elected Member for George Town also asked what national legislation would need to be enacted to confer the required status upon the community in the Cayman Islands; that is provision (iii) of this Agreement. I am not sure what required status means and I would be grateful to the Honourable Minister if he could indicate to us what that means. What is the required status that needs to be conferred upon the community in the Cayman Islands and what will the effect of that be?

So, I reiterate those points which were dealt with to some extent, by the First Elected Member for George Town and the Elected Member for East End. For emphasis and to emphasise our concerns about these issues, I invite the Honourable Minister in his reply to provide some elucidation and to expand upon what he said when he introduced the Motion. I believe it is incumbent upon him and the Government, in a matter of seriousness and importance, to provide this Honourable House and the community at large, with sufficient information so that when this agreement is signed and when we become an Associate Member of the Community of CARICOM, including the CARICOM Single Market and Economy, that the country and all persons who are residents within the country fully understand what this means; what its effects are; what are the benefits and what are the consequences of this very important step.

So, with those few words I will thank you and resume my seat. Thank you, Madam Speaker.

The Speaker: Thank you Honourable Member. Does any other Member wish to speak? Does any other Member wish to speak? If not we will take the afternoon break, after which I shall call upon the Honourable Leader to do his reply if he so wishes.

Proceedings suspended at 3.22 pm

Proceedings resumed at 4.00 pm

The Speaker: Please be seated. Proceedings are resumed.

The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Madam Speaker, the Government considers that this Motion; this agreement is not something that we just dropped in our lap and not something just thought up; this is something that has been around for many years. This, as they have said, has been around even last year when the First Elected Member from George Town was leading the Government.

While the Opposition says it wants to strengthen the ties and embrace other Caribbean nationals, they in many words, have done their best to create confusion and to use scare mongering tactics. They have also done their best to give the impression that the Cayman Islands, under the agreement before us, would be sacrificing its national sovereignty; some of them knew about this for a long time. However, nothing could be further from the truth, Madam Speaker, and the truth is that every one of them who spoke knows that what I am saying is correct. Responsible Opposition! They are responsible as two squabs.

First let me deal with this matter of the question on the Order Paper (question 30), as I gave an undertaking that the question was ready and it would have been here to be read today if the Permanent Secretary had not gotten sick yesterday and had to be at home. I think I intimated that to you, Madam Speaker, and there was some confusion as to where the answer was. Yes, the question could have been answered to an extent some time ago, but I had, as I suspect some of them might have had, the Anguilla Agreement. However, I had not gotten our Agreement and that Agreement is the same as Bermuda's, Anguilla's, Turks and Caicos' and the British Virgin Islands', it is the same and the British would not have allowed this Agreement if anything was wrong with it, because it would be taking away their sovereignty. That is why the question was not answered today—two things 1) the Permanent Secretary and 2) I waited until I could get our Agreement for Members to have so that they could see our Agreement, although it remains the same. I was trying not to let happen, exactly what happened. They get up; throw a lot of confusion into it; make a lot of noise; a lot of rhetoric politically to hear them-selves chat!

As to the contribution, the First Elected Member from George Town could have told them! When myself, and Mr. Walton came back from the Bahamas last year, we said to Executive Council that the contribution would be between \$25,000 and \$40,000. Maybe he will say that he did not remember, but he certainly was told. The whole of Executive Council was told because when ever we go on any meeting or conference for Government, there is a report to Executive Council, either verbally or written, in most cases, at least in this Government we do.

Let us get to the confusion they have created or are trying to create. They have questioned, in particular, clauses (iii) and (iv) in the Agreement. The Second Elected Member for George Town, who spoke specifically and timely, was doing his best to say that they do not know what they have done so we need to let the people know.

As I said, firstly the United Kingdom Government had to give its letter of entrustment and then they had to agree to the CARICOM Agreement. This Government would not have brought this Agreement here without legal advice and that legal advice came from the Solicitor General. This Memorandum to the Permanent Secretary, the Ministry of Tourism, Environment, Development and Commerce from the Solicitor General, dated March 14, 2002, subject: "Review of terms and conditions of CARICOM Associate Membership. I read:

"I refer to your request of the draft agreement between Cayman Islands Government (CIG) and CARICOM. I also refer to our subsequent discussions SG/Permanent Secretary, and the fact that your office is subsequently providing me with necessary documentation by way of memo of March 14, 2002 with enclosures.

"I have perused the above mentioned agreement along with the relevant provisions of the Treaty of Chaguaramas as amended establishing CARICOM, (hereinafter referred to as the "Treaty").

"I have also discussed (via phone) with the Deputy Financial Secretary the contents of the draft agreement and CIG's involvement to date with CARICOM.

"It is my understanding, having read the relevant draft Government Motion, that the Legislative Assembly will be asked to agree to support the acceptance of the offer of Associate Membership within CARICOM and to endorse the acceptance of the terms and conditions to be attached by the Community (CARICOM).

"I am of the opinion, that legally it is quite acceptable for the CIG to proceed with the draft agreement and its current form. Indeed, it is still in draft form and the Deputy Financial Secretary has confirmed to me that there will be further discussions/reviews prior to CIG signing off on the final document. Accordingly there will be further opportunities for the CIG to revisit the agreement and to suggest amendments if necessary.

"Additionally, although Article 30 (2) provides that on an application for Associate Membership the conference shall determine the conditions under which the applicant state maybe associated with CARICOM, there are adequate safeguards in place to protect Associate Members, an example is provided in Article 31 to the effect that decisions taken under the treaty requiring certain actions shall be subject to the relevant constitu-

tional procedures of the respective Member States.

"Indeed the procedure has been that for Associate Institutions to operate in Member States, each Member State prefers to enact domestic legislation incorporating them as national institutions. For example the Caribbean Development Bank (CDB) Law, (Law 6 of 1970) (1997 Revision), Cayman Islands, the effect of which was to inter alia, provide statutory recognition of the CIG relationship with CDB.

"Finally in this regard, I am not unmindful of paragraph (iv) of the draft agreement (acceptance by CIG of CARICOM Travel Document laissez-passer). This again would be an area that would be subject to national legislation and therefore there would be adequate safeguards to protect against any possible unbearable cross-border human trafficking.

"In conclusion therefore it is my opinion that legally the current draft is acceptable. I would advise that there be a further legal review prior to CIG executing the final Agreement.

"Samuel Bulgin, Solicitor General"

Madam Speaker, I think that clears up the questions which were totally, in my opinion, unnecessary because the First Elected Member from George Town has been party to this for quite some time. If they are serious about being the Loyal Opposition that they say they are then they ought to behave in a responsible manner. To get up here and try to scare mongering, concerning the inflow and outflow of people - immigration into this country, it is most ridiculous and dangerous, but it shows an Opposition that is junior.

Immigration into the Cayman Islands is and always will be governed by the provisions of the Immigration Law. This Agreement or any other agreement will supersede the Immigration Law of the Cayman Islands if the United Democratic Party has anything to do with it. The Government has not and will never do anything to affect our people detrimentally.

The converse is true; we are here trying to bring us into a relationship with our Caribbean neighbours which will bring us benefits as a collective body, not available as a single member state. What are some of those benefits? I read those benefits but let me repeat them because after I read them they asked the question again; what are the benefits? There would be representation in forums and meetings, currently not available directly to the Cayman Islands; increased bargaining power and issues of common concern to CARICOM and the Cayman Islands, like the OECD matters. I should say, Madam Speaker, that the CARICOM has established an eminent negotiating team so that when they go to those various meetings, which we would not get into, they would negotiate and anything that is good we will get the benefit of it.

Benefits would be participation in the various programs and working groups of CARICOM, on issues such as HIV AIDS, tourism development, disaster recovery, agricultural research, cultural development and drug interdiction efforts. One of the things I know that CARICOM is looking at right now is a high security prison for the Caribbean. We would also have direct access to technical assistance in those areas mentioned.

Let me reiterate again, there should not be any lingering misconception about what Associate Membership means for the Cayman Islands. However, when I speak to the Opposition I know that they know, that there would not be any free movement of CARICOM nationals; goods or services across Cayman borders. Our national laws would always dictate. There is no requirement for Cayman to participate in the Caribbean Single Market and Economy, and in this forum Cayman would not speak to foreign affairs because the United Kingdom speaks on foreign affairs for the Cayman Islands.

They know all this but they have done their endeavour best, ever since this Government took over on the 8 November 2001, to everything that we have put forward except for a few. God only knows how those two measures got agreement; God only knows because they have criticised; they have spread rumours; they have said some of everything about what the Government has been doing. What we have been doing is trying to do good for the people of this country, perhaps some of the things that should have been done a year ago.

The other matter that they questioned, I believe that Mr. Bulgin cleared it up. However, the matter of the Immunities and Privileges—do not tell me that they say that they are a responsible Opposition; Her Majesty's Loyal Opposition, they say. They do not know what that is! This is no more than the Immunities and Privileges which exists to Members of this Honourable House; which should recognise this Agreement and respect the offices of CARICOM officials; that is what we should do. We should respect and recognise them and give them certain privileges when they come into the airport, for instance; why not?

Just let me say that nothing in this Agreement would come into being without the passage of national legislation if we do not already have it. However, this agreement will not come into play without national legislation recognising it; they know that!

What will happen from here is that we will sign it and participate in the things that benefit the Cayman Islands, and these are all good things. If they were as genuine as they claim to be and wanted to strengthened ties, they would not have tried to do what was attempted here this afternoon. I am no lawyer but I have good common sense, much more than some of them give me credit for, and I will tell you another thing, Madam Speaker, while I am at it, and I will close on this: There is a clause existing in the Constitution before us, which says that the Attorney General of this

country can be appointed or must be a lawyer. Well I tell you this Madam Speaker, that clause would never get any support from McKeeva Bush.

The Motion is very clear; it has a lot of public discussion. The Agreement is very clear, it will not come into force without further review by the Legal Department, as Mr. Bulgin has said, and I invite the Opposition to come and witness the signing. Thank you Madam Speaker.

The Speaker: Thank you, Honourable Leader. The question is that the Legislative Assembly agrees to support the acceptance of the offer of Associate Membership with CARICOM under the terms and conditions attached by the Community. All those in favour please Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Government Motion No. 2/02 passed.

The Speaker: Is it the wish of the House to move the Motion for the adjournment at this time or commence the new Motion?

Honourable Leader of Government Business.

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, it seems to be the wish to adjourn at this time and I so move the adjournment of this Honourable House until 10 am tomorrow morning being Thursday, 21 March. Thank you.

The Speaker: The question is that the Honourable House do now adjourn until 10am tomorrow, Thursday, 21 March 2002. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. The Honourable House stands adjourned until 10 am tomorrow, 21 March 2002.

At 4.24 pm the House stood adjourned until 10 am, Thursday, 21 March 2002.

OFFICIAL HANSARD REPORT
THURSDAY
21 MARCH 2002
10.30 AM
Fourteenth Sitting

The Speaker: Please be seated. I will now invite the lady Member from the district of North Side to grace us with prayers.

PRAYERS

Ms. Edna M. Moyle: Let us pray:

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

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

Let us say the Lord's Prayer together:

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

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

Proceedings resumed at 10.32 am

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

Apologies

The Speaker: Please be seated. Proceedings are resumed. I have received apologies for late attendance for the Honourable Minister responsible for

Planning, Communications, Works and Information Technology, and from the Honourable Minister responsible for Education, Human Resources and Culture.

**QUESTIONS TO HONOURABLE
MINISTERS AND MEMBERS
OF THE GOVERNMENT**

The Speaker: The Elected Member from the district of East End.

Question No. 29

Deferred Wednesday, 20 March, 2002

No. 29: Mr. V. Arden McLean asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce if Government has entered into any discussions with other entities or individuals regarding the sale of Cayman Airways Ltd.

The Speaker: Honourable Leader, Minister of Tourism.

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

The answer: The Cayman Islands Government has not entered into any discussion with other entities or individuals regarding the sale of Cayman Airways Limited.

The Speaker: The Member from East End.

Supplementary

Mr. V. Arden McLean: I wonder if the Minister can say if the Government has entered into any discussions regarding any other entity taking up the routes of Cayman Airways.

The Speaker: Honourable Leader.

Hon. W. McKeeva Bush: Madam Speaker, the answer is 'No'.

The Speaker: Are there any further supplementaries? If not we will move on to the next question.

The Elected Member from the district of East End.

Question No. 30

No. 30: Mr. V. Arden McLean: asked the same Minister to say the terms and conditions of the proposed entry of the Cayman Islands into the regional body known as the Caribbean Community or CARICOM.

The Speaker: The Honourable Leader.

Hon. W. McKeeva Bush: Thank you, Madam Speaker. The answer: The information which is being sought on this question was revealed yesterday when I presented the Government Motion concerning the Cayman Islands Associate Membership in CARICOM. I am, nevertheless, attaching the terms and conditions for our Associate Membership in CARICOM together with a memorandum, dated 14 March 2002, from the Solicitor General, which confirms that it is legally quite acceptable for the Cayman Islands Government to proceed with the draft agreement in its current form.

Also, I am going to ask the Serjeant to circulate a chronology of the events which dealt with the Cayman Islands' formal application for associate membership within CARICOM. If you would permit I will also read that chronology.

The Speaker: Please proceed.

Hon. W. McKeeva Bush: The chronology states:

1. "The 5 April 2002, a letter from the Financial Secretary to the Secretary General CARICOM seeking advice on becoming an associate membership in CARICOM.
2. The 12 June 2001 a letter from the Secretary General to the Honourable Financial Secretary outlining the procedure.
3. The 20 June 2001, EXCO paper seeking approval for the Governor to approach the UK Government to secure Her Majesty's Government's approval and a letter of entrustment.
4. The 26 June 2001, extract giving approval for the Governor to approach the UK Government for its approval and also that a representative from the Cayman Islands to attend the CARICOM conference in the Bahamas as an observer.
5. The 27 June 2001, a letter from the Governor to the Foreign and Commonwealth Office seeking Her Majesty's Government's approval and a letter of entrustment.
6. The 28 August 2001, the letter of entrustment from Baroness Amos Foreign and Commonwealth Office to the Governor approving a proposal.
7. The 4 September 2001, a memo from the Governor to the Honourable McKeeva Bush copied to the Honourable Financial Secretary forwarding letter of entrustment. (That is because Ex-

ecutive Council had approved for me to attend the conference in the Bahamas).

8. The 10 October 2001, the manuscript note from the Financial Secretary to the Deputy Financial Secretary forwarding letter of entrustment.
9. The 24 October 2001, letter to Deputy Secretary General from Deputy Financial Secretary forwarding letter of entrustment.
10. The 11 January 2002, EXCO paper seeking authorisation for the Governor to make a formal application for associate membership.
11. The 22 January 2002, EXCO approved the above paper.
12. The 29 January 2002, a letter from the Governor the Secretary General forwarding formal application on behalf of Executive Council".

This is but a chronology of the events and not the documentation.

The Speaker: Are there any supplementaries? The Second Elected Member for George Town

Supplementary

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, the document from which the Honourable Minister just read concludes (*see attached documents 1 to 12*). There are no attachments to the document and I wonder if the Honourable Minister could indicate whether or not we will have sight of those attachments referred to.

The Speaker: Honourable Leader.

Hon. W. McKeeva Bush: Madam Speaker, I did say that this was just a chronology of events without the documents. However, I will attempt to get those documents once the Governor approves it. I so not see any reason why it cannot be given to Honourable Members, but up until the 24 October, the First Elected Member from George Town and the Member from North Side would have known of all of these events because they approved all of these events. As I said, I will seek permission from the Governor to distribute the documents.

The Speaker: Are there any further supplementaries? If not we will move on to the next item of Business.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received no notice of Statements this morning.

GOVERNMENT BUSINESS**BILLS****FIRST READINGS**

The Speaker: Honourable Leader could you move the suspension of Standing Order 46(1) and (2)?

Suspension of Standing Order 46 (1) and (2)

Hon. W. McKeever Bush: Madam Speaker, I move the suspension of Standing Order 46(1) and (2) to take the First Reading.

The Speaker: The question is that Standing Order 46(1) and (2) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46 (1) & (2) suspended.

The Tourist Accommodation (Taxation) (Amendment) Bill 2002

The Clerk: The Tourist Accommodation (Taxation) (Amendment) Bill, 2002.

The Speaker: Thank you. The Bill has been deemed to have been read the First Time and is set down for the Second Reading.

The Speaker: The Honourable Third Official Member.

Suspension of Standing Order 46(4)

The Speaker: Honourable Leader.

Hon. W. McKeever Bush: Madam Speaker, I move the suspension of Standing Order 46(4) in order to take the Second Reading of The Tourist Accommodation (Taxation) (Amendment) Bill 2002.

The Speaker: The question is that Standing Order 46(4) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed. Standing Order 46(4) suspended.

SECOND READINGS**The Tourist Accommodation (Taxation) (Amendment) Bill 2002**

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Thank you, Madam Speaker. The users of timeshare units enjoy the same infrastructure such as good roads, good medical facilities, clean beaches, policing and other emergency services as tourists staying at hotels and condominiums in the Cayman Islands.

As Honourable Members and you, are aware, tourists staying at hotels and condominiums pay an accommodation tax. It is therefore logical to expect that the users of timeshare units should pay an accommodation tax since they too enjoy the same infrastructure and environment as tourists staying in hotels, condos and guest homes. This is a platform or rationale on which this Bill was developed.

A Bill for a Law to be entitled, The Tourist Accommodation (Taxation) (Amendment) Bill 2002, is now before Honourable Members. Its Memorandum of Objects and Reasons states that the purpose of the Bill is to amend The Tourist Accommodation Taxation Law, 1996, in order to extend accommodation tax to timeshare units.

Clause 1(1) of the Bill provides the title of the intended law.

Clause 1(2) states that, "**This Law shall come into force on such date as may be appointed by order made by the Governor in Council**".

The timeshare industry has stated that in order to significantly reduce the chances of the industry being damaged by the immediate implementation of the measure without prior notification to timeshare owners, the industry should be given approximately one month after the Bill has become Law to notify the many thousands of timeshare owners throughout the world of the tax existence.

It is envisaged that one month after the Law has been passed and gazetted it will be brought into force by an order made by the Governor in Council. This is the purpose of clause 1(2).

Clause 2 of the Bill provides definition of accommodation which is essentially the same as that under the principal Law timeshare and service; service being defined in the same manner as that in the principal Law.

Clause 3 of the Bill give details of how the Accommodation tax is to be calculated, that is, tourists staying in accommodation other than timeshare units will continue to pay an accommodation tax that is equal to 10 per cent of the charges made for that accommodation by its proprietors. This is detailed in clause 3(1).

Clause 3(2) defines the type of persons staying in timeshare units who will pay a flat accommodation tax of \$10 per room. These persons are:

- a) the owner of timeshares;
- b) a guest of the owner of the timeshare; or
- c) a person who has exchanged his timeshare for that timeshare.

It is important to note that the \$10 per night has been determined as a result of extensive consultation with the timeshare industry. The industry believes that this is a reasonable amount to charge while still ensuring that the local market remains price competitive.

Clause 3(3) provides that where timeshare units are occupied by persons other than those mentioned in clause 3(2) the rate of accommodation tax will revert to the familiar 10 per cent charge specified in clause 3(1).

Honourable Members asked how the collection will be pursued of the timeshare accommodation tax. This will be under the same arrangement as now exists whereby revenue in respect of tourism accommodation tax is policed and collected by the Department of Tourism. Previously, the checks together with supporting documents were submitted to the Treasury Department. While the Treasury Department also checked to ensure that the amounts agreed with the supporting documents, did not have all of the relevant records at hand in terms of all of the tourism accommodation facilities operating within the Cayman Islands. This should be helped significantly by the new arrangements that have been put in place since the latter part of last year, whereby the collection function has now been turned over to the Department of Tourism. They have records of all entities that are providing tourism accommodation arrangements in the Cayman Islands and should be in a better position to police the timeshare arrangement as well. This should enhance the collection process and ensure that monies due to Government are collected and remitted through the Department of Tourism to the Treasury Department.

I commend this Bill to all Honourable Members and I should mention that Honourable Members are aware that this is a part of the Budget package for the year 2002.

The Speaker: Thank you, Honourable Member. Does any Member wish to speak? If not I will call upon the Honourable Third Official Member to exercise his right of reply if he so wishes.

Hon. George A. McCarthy: Madam Speaker, I would like to say thanks to Honourable Members for their tacit support of this Bill.

The Speaker: I shall put the question that a Bill entitled, The Tourism Accommodation (Taxation) (Amendment) Bill 2002, be given a second reading. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. The House will now go into committee to consider the Bill.

Agreed: The Tourism Accommodation (Taxation) (Amendment) Bill 2002 given a Second Reading.

House in Committee

COMMITTEE ON BILL

The Chairman: With the leave of the House, may I assume that as usual we should authorise the Honourable Second Official Member to correct minor errors and such the likes in these Bills. Will the Clerk please state the Bill and read the relevant clauses.

The Tourism Accommodation (Taxation) (Amendment) Bill 2002

Clauses 1 – 3

The Clerk:

- | | |
|----------|--|
| Clause 1 | Short title—The Tourist Accommodation (Taxation) (Amendment) Bill 2002 |
| Clause 2 | Amendment to section 2 of The Tourist Accommodation (Taxation) Law (1996 Revision)—definitions |
| Clause 3 | Repeal of section 3 and substituting taxation of tourist accommodation. |

The Chairman: The question is that clauses 1 to 3 do stand part of the Bill. If there is no debate I will put the question that clauses 1 to 3 stand part of the Bill. Those in favour please say Aye. Those against, No.
Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 were passed.

The Clerk: A Bill for a Law to amend the Tourist Accommodation (Taxation) Law (1996 Revision) to provide for the Imposition of an Accommodation Tax on Timeshares; and for Incidental and Connected Purposes

The Chairman: The question is that the Title does stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: The question is that the Bill be reported to the House. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: That the Bill be reported to the House.

The Chairman: The Ayes have it. That concludes proceedings in committee stage.

House Resumed

The Speaker: Please be seated. Honourable Leader.

Suspension of Standing Order 47

Hon. W. McKeever Bush: Madam Speaker, I move for the suspension of Standing Order 47 in order to take the Third Reading of The Tourist Accommodation Bill 2002.

The Speaker: The question is that Standing Order 47 be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed. Standing Order 47 suspended.

REPORT ON BILL

The Speaker: The Honourable Third Official Member.

The Tourist Accommodation (Taxation) (Amendment) Bill 2002

Hon. George A. McCarthy: Madam Speaker, I am to report that a Bill entitled, The Tourist Accommodation (Taxation) (Amendment) Bill, 2002 was considered by a committee of the whole House and passed without amendment.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

THIRD READING

The Tourist Accommodation (Taxation) (Amendment) Bill 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to move that a Bill entitled, The Tourist Accommodation (Taxation) (Amendment) Bill 2002 be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled, The Tourist Accommodation (Taxation) (Amendment) Bill 2002, be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Tourist Accommodation (Taxation) (Amendment) Bill 2002, read a third time and passed.

The Speaker: The Honourable Leader of Government Business.

Suspension of Standing Order 24(5)

Hon. W. McKeever Bush: Madam Speaker, I move for the suspension of Standing Order 24(5) in order to take Government Motion No. 3.

The Speaker: The question is that Standing Order 24(5) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 24(5) suspended.

MOTIONS

GOVERNMENT MOTION NO. 3/02

The Loans (Caribbean Development Bank) Law (1999 Revision) Cayman Islands Development Bank

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to move Government Motion No. 3 of 2002, which reads as follows—

“WHEREAS section 28(1) of the Public Finance and Audit Law 1997 provides that the Government shall not borrow money except in accordance with a law;

“AND WHEREAS Section 3 (1) of The Loans (Caribbean Development Bank) Law (1999 Revision) provides that the Governor may, in such manner, on such terms and subject to such conditions as may be agreed between the Governor and the Bank, borrow from the Bank, from time to time, such sums as may be required by the Government not exceeding two hundred and fifty thousand dollars or, with consent of the Legislative Assembly, amounts in excess of that sum;

“AND WHEREAS it is proposed that the Government of the Cayman Islands shall borrow an amount not exceeding five million United States Dollars (\$5,000,000) from the Caribbean Development Bank for the purpose of providing

mortgage financing to assist in the purchase of newly constructed homes, the construction of new homes and the improvement of existing homes - the administration of which will be carried out by the Cayman Islands Development Bank as Executing Agency for the Government of the Cayman Islands;

“BE IT THEREFORE RESOLVED THAT this Honourable House, acting in accordance with section 3(1) of the Loans (Caribbean Development Bank) Law (1999 Revision), gives its approval to the Governor-in- Council to authorise the Financial Secretary to execute a loan agreement on behalf of the Government of the Cayman Islands and the Caribbean Development Bank for an amount not exceeding US\$5 Million being advanced by the Caribbean Development Bank to the Government of the Cayman Islands to provide mortgage financing to assist in the purchase of newly constructed homes, the construction of new homes and the improvement of existing homes - the administration of which will be carried out by the Cayman Islands Development Bank, as Executing Agency for the Government of the Cayman Islands, together with the principal repayments, interest and any commitment and other charges in respect of the said amount of US\$5 million.”

The Speaker: The Motion has been duly moved and is opened for debate. Does the Honourable Third Official Member wish to speak thereto?

Hon. George A. McCarthy: Thank you, Madam Speaker. As Honourable Members of the Legislative Assembly would recall the Honourable Leader of Government Business announced early last year a number of initiatives to address the tremendous housing needs existing among low and lower-middle income Caymanians.

The Government continues to recognise the inequity that has made it very difficult for the average person in this country to acquire adequate shelter and as part of its social responsibility it has sought to address this need from several angles. Government has begun to deal with some of these past obstacles and has put in place several mechanisms to facilitate greater access to mortgage financing.

First, is the establishment of the Cayman Islands Development Bank (CIDB), in which the legislation was passed in this Legislative Assembly of December, 2001.

Following on that is the launch of a homeownership improvement programme, which will give the opportunity to various persons who never had the ability before to own a property. Specifically, this mortgage programme was designed on the basis of feed back from various forums in the community, as well as from empirical evidence gleaned from submissions from the low-cost housing committee that was

charged with the development of a multi-disciplinary approach to addressing this pressing issue.

In addition, the programme was reviewed, tested and evaluated by the Caribbean Development Bank. To fund this mortgage programme (Home Ownership made Equitable programme), the Government has sought and obtained funding from the Caribbean Development Bank for a loan of \$5 million to address this serious social need.

The newly established Cayman Islands Development Bank will implement and manage this mortgage programme in its entirety and as such, will be the official executing agency on behalf of the Cayman Islands Government. Members of this Honourable House are therefore being requested to support the loan of \$5 million from the Caribbean Development Bank for mortgage financing for low income Caymanians, with the Cayman Islands Development Bank acting as executing agency.

[pause]

Hon. George A. McCarthy: Madam Speaker, if you will permit, I think it would be useful for me to give some information on the terms and conditions of the loan to Honourable Members.

The Speaker: Please proceed.

Hon. George A. McCarthy: Madam Speaker, particulars of the loan from Caribbean Development Bank, as I said earlier, the loan will be for US\$5 million the equivalent being CI\$4.2 million to be lent to the Cayman Islands Government for use by the Cayman Islands Development Bank for mortgage finance lending. Repayment terms are as follows—

- Over a period of 13 years with principal repayment commencing five years after date of first disbursement.
- The interest rate will be 5.75 per cent per annum and this is a variable rate. There will be a 1 per cent commitment fee on un-drawn balances.

[pause]

Hon. George A. McCarthy: Madam Speaker, just asking if you could bear with me for a minute. I am just clarifying . . .

The Speaker: Honourable Member, perhaps this might be a convenient time for the morning break.

Hon. George A. McCarthy: Thank you, Madam Speaker.

The Speaker: We will take a break for about 15 minutes.

Proceedings suspended at 11.06 am

Proceedings resumed at 11.33 am

[Deputy Speaker in the Chair]

The Speaker: Please be seated. Proceedings are resumed. I will call on the Third Official Member to continue his debate.

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

Before the break I was attempting to share some notes that have been provided to me through the Agriculture and Industrial Development Bank (AIDB). They are in bullet point format and they were not clear in some instances. So, with your permission I will repeat some of the information that I gave earlier.

The amount of the loan, as I said, during the presentation is for US\$5 million which converts to CI\$4.2 million. This is to be lent to the Cayman Islands Government for use by the Cayman Islands Development Bank for mortgage finance lending. Repayment terms are as follows: The period of repayment is spread over 13 years with a 5 year moratorium on principal repayment. The interest rate per annum is 5.75 percent and that is variable.

Mr. Speaker, Caribbean Development Bank is not a deposit taking institution, and as a result, it is not affected by interest rate changes as would be found in an ordinary commercial bank. It normally raises the money that is available for unending through three sources: Firstly, on the open market by the issuing of bonds; secondly, from the paid up capital by borrowing member countries, and also contributions by non-borrowing member countries.

From time to time Caribbean Development Bank (CDB) reviews its rate structure and whenever it is in a position to give a reduction in interest rates, it normally does so to the benefit of its members. When the agreement was initially submitted to the Government it was showing an interest rate in excess of 6 per cent. After reviewing, and I would imagine, representation by its borrowing member countries the rate has now been reduced to 5.75 per cent. Although it is variable, it is anticipated that this will not be showing any changes in the short term. We do hope that the bank will be able to maintain this rate and if there are to be any changes that it will be lower rather than higher. Again, Caribbean Development Bank will have to operate as a viable financial institution. As a result of that it takes into account the costs of services provided to borrowing member countries and also the expected rate of return on capital. So, 5.75 per cent is the rate at which the loan will be made available.

There will be a 1 per cent commitment fee on un-drawn balances.

Key dates as shown on the loan appraisal document are as follows:—

- The first disbursement by CDB shall be made by the 31 March 2202.
- The loan is to be fully committed by the 31 December 2004.

- The loan is to be fully disbursed by 31 December 2005.

Conditions which are precedent for first disbursement are as follows:—

1. Approval of the Legislative Assembly for the loan (what is being sought by way of this Bill).
2. Evidence of appropriate financial and operational policies and procedures (in that, the Cayman Islands Development Bank (CIDB) must satisfy the CDB that it has appropriate arrangements in place in order to administer its affairs appropriately).
3. The Cayman Islands Government is required to contribute 3 per cent to the authorised capital of the bank which is \$50 million. Three per cent amounts to \$1.5 million and that is to be contributed in instalments as follows—
 - By 31 December 2002 \$500,000
 - By 31 December 2003 another half a million dollars
 - By 31 December 2004 another half a million dollars.

This will allow for the \$1.5 million or the 3 per cent contribution to the paid up capital of the bank or authorised capital of the bank to be achieved.

Specific conditions for unending of the funds by the Cayman Islands Development Bank: All homes under construction must be owner occupied. There are two categories upon lending—

1. Home acquisition
2. Home improvement

Home Acquisition criteria

Loans shall be for construction of a house on land owned or lease by the borrower or the purchaser of newly constructed homes. Only first time homeowners can qualify. There must be evidence that the home to be occupied will be used as a residence by the borrower(s) and/or his or her family. The maximum loan size would be the lesser of the following four amounts where applicable:

1. \$95,000
2. 90 per cent of the market value of a newly constructed house, or
3. 90 per cent of the combined value of the market, value of the land, plus the cost of the house after construction.
4. 90 per cent of the improved property.

The monthly income shall not exceed:

- Individual \$3,000
- Joint/combined \$4,500
- Repayment terms 20 years
- Interest rate to be determined by the CIDB based on the cost of funds.

- Security must be adequate and must be subject to careful appraisal as to value.
- Insurance must be adequate and relevant.

Home Improvement

Home Improvement criterion shall only be for improvement, extension repair or maintenance and re-rofitting of a house on land owned by the borrower. The estimated cost of any improvement being requested shall not exceed \$25,000 or two-thirds of the estimated value of the house or 100 per cent of the cost of improvement.

Monthly incomes shall not exceed:

- Individual \$3,000.
- Joint/combined \$4,500.
- Repayment terms 15 years.
- Interest rates to be determined by the CIDB based on the cost of securing funds.
- Security must be adequate and must be subject to careful appraisal as to value.
- Insurance coverage must be adequate.

Thank you, Mr. Speaker. I submit this Motion for consideration and support by Honourable Members.

The Speaker: Thank you. Does any other Member wish to speak? Does any other Member wish to speak? Final call; does any other Member wish to speak?

The Honourable Minister for Education.

Hon. Roy Bodden: Thank you, Mr. Speaker.

Mr. Speaker, this move by the Government to access funds for on-lending to Caymanians, so that we can have some system of affordable housing, particularly for the lower income bracket in this country is one that has been talked about for many years. Undoubtedly, there is widespread acknowledgement of the need to provide affordable and accessible housing to this sector of our society. The move to formalise this arrangement with the CIDB should be a move which is embraced by all Honourable Members, particularly if those Honourable Members are aware and have concerns for the addressing of this glaring need.

There are those of us who realise that the Caymanian society cannot continue to develop along the socially harmoniously lines that we have come to expect, if a significant portion of our people are deprived of the means to access adequate and affordable housing for themselves. It is a widely respected historical phenomenon that those societies are most stable in which the members of that society all have vested interests and there can be no greater vested interest than a person or a family owning their own home. So, this move is indeed timely and I look forward with great interest to its development.

I do not believe that it will service all of the needs in this area that we have in the society at this time, but

it is certainly a worthy and commendable beginning effort and I hope we can take it from there.

The development and implementation of the CIDB through which these funds will be routed is, again, a commendable effort and an effort in the right direction. There are those of us who have been saying for years that we should have had such an institution. I am happy that these funds will be disbursed through this vehicle because it will enable the funds to be disbursed in such a way that politicians cannot be accused of peddling their influence or interfering in any way whatsoever. It goes further than that: It is also in keeping with business trends in the private sector, which have these kinds of vehicles incorporated specifically for this purpose. The strength of this is that if the Government were disbursing these funds through some other agency, there may be the temptation to circumvent the process by appealing to the political goodwill or political sentiments with a professional organisation whose business is the disbursing and collection of funds. Such a practice is not possible.

I look forward to the learning of these developments. I know there are many persons out there who are just waiting for this exercise to come to the maturity to where applications can be received for these loans. Everyday I get people coming to the Ministry, calling me or when they meet me on the street they ask when is something going to be done.

There are many persons, I believe, who are eminently equipped to enter this partnership. I like the conditions that all of the houses will have to be owner occupied. I also like the idea that the homeowners themselves will have a vested interest. I think it bodes well for the success of these operations when the persons themselves who are borrowers have a vested interest and have a stake in the development, either by ownership of the property or by some significant sum, which has to be deposited to the bank. This is long over due and I am happy that I could be a part of a prescient government who has sought to put the money where their mouth is, by making this available so that persons in the lower income levels of our society can benefit.

We will monitor this and see how it works. Perhaps, we will always have the option of expanding or seeking additional areas of finance if the situation warrants us going on. This is indeed a worthy effort and it comes none-too-soon and I give it my wholehearted support. Thank you.

The Speaker: Does any other Member wish to speak? The Elected Member for East End.

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

I rise to give a brief contribution to the Motion before us on the borrowing of US\$5 million from CDB towards the building of affordable homes. Ever since I was elected to this Honourable House in November 2000, I have supported and I have championed the cause for affordable housing. When the current Minis-

ter for Tourism was responsible for Housing, he and I and your good self, Mr. Speaker, travelled at least once to look at housing. Events, since then, have made the Ministry reshuffle and there is a different Minister.

I am on record as offering any assistance that I could give with regards to affordable housing. I have offered the same assistance that I gave to the former Minister for Housing to the current Minister. Therefore, I have no problem with supporting the borrowing of US\$5 million for the purposes of, hopefully, assisting the Caymanians who cannot afford to build or who need repairs to their homes, throughout the three Islands.

We know that Cayman has been described as one of the more prosperous countries in the Western Hemisphere. Nevertheless, we find that there are situations in our country where the gap between the *haves* and the *have-nots* continue to widen. I have always believed that the responsibility to stimulate and provide in the area of the *have-nots* should come from an initiative made by Government. Mr. Speaker, any country with too many *have-nots* will eventually fail. That is where we get our citizens feeling like they are not sharing in the prosperity of a country, in particular, the Cayman Islands. If we can boast of being the fifth largest financial centre in the world then our people must share in it. They feel, and rightly so, that if they are not sharing in it they are being left behind. Thus, they oppose the whole system in the country and then we get dissension in the country.

Any government's responsibility is to ensure that there is peace in a country, and if it takes for the Government to borrow monies to give our people a sense of belonging and owning something. I believe that the development of any child comes with seeing their parents owning a home where they can go to like all their peers; it makes them feel a sense of worth. If they do not then the animosity starts between the child who has and the child who does not have.

I am aware that the \$5 million requested is but a mere drop in the bucket. Hopefully, the Government will see the need, ways and means of increasing that at a later stage. I see no need for revenue measures to support loans and payments made. It is loan; it is not for free. Certainly, there will be instances where government has to put in to the development bank to ensure its continuity. I believe that it is timely, particularly, in the recession that we are going through where we have a lot of small Caymanian contractors who would benefit from the building and repairs of these homes, or whatever the loans are for.

The Minister of Education indicated that this type of arrangement being talked about for years; I respect that and I know that, and yes, it has not happened, but there has always been a problem in our country which contributed to it not happening. I believe that the biggest problem was the lack of alternative methods of building homes; it had to be the conventional way. I recall many years ago when it was called *prefab* and

all the contractors got up in arms against government allowing the importation of *prefab*. Nowadays it is called *pre-engineered homes*. Well, those were the days when it was plentiful in this country. I am sure they will now embrace alternative methods of building homes. Besides, time has passed and the pre-engineered method of building homes has improved as well. Therefore, because we are in the hurricane belt homes can now be built with the pre-engineered material, which can withstand the hurricane winds (whatever is required by the Planning regulations).

If I may, I will suggest one thing to the Government, and that is, not to let the same thing that detracted from this possibility years ago stop them at this time, that is, the pressures from contractors saying that they will not be making money out of these homes. I believe it is better for a contractor to make a few dollars and stay alive during a recession than for him not to make anything. The contractors and this country need to recognise that we have a problem on our hands and it is growing. The longer it is left without something being done, the worst it is going to become. Our people are going to be worse off. Therefore, the contractors must come on board and if they do not the Government will have to find other ways of getting contractors to build the homes.

Mr. Speaker, because of the need that is down on us so heavily, the Government needs to ensure that nothing stops them from going ahead with it. Recently, I asked a question on the Government's policy with regards to affordable housing and the reply from the Minister was that the Government was in a process of building a number of homes and they had acquired land in West Bay and George Town. I wonder if the intent now is to buy properties in other districts within the Islands, and in other areas of Grand Cayman. It was also said that these homes would be built within the next year. I believe it is somewhat aggressive but, certainly, if the Government can get it done within a year, then more power to them. In the reply to my question it was not clear as to how many homes will be built in the different districts but I suspect that between now and tonight we will know how many will be built in East End.

I am committed to whatever is in the best interest of our country; whether it is the UDP or any other government that brings something to this Honourable House during my tenure. For the betterment of my people and my country I will support it. It makes no difference to me where it comes from. If I cannot support something, then I will not, however, in this instance I fully support the borrowing of the US\$5 million. We will just have to wait and see if it is sufficient and how it is distributed within the country. We must recognise that this need is throughout this country. It is not only in George Town and West Bay but it is in Bodden Town, North Side, East End and the Cayman Brac and Little Cayman (Sister Islands), as well. Further, it is not only where the UDP have members, it is the whole country that needs this. I am looking for-

ward to hearing about the distribution and to see how the Development Bank will conduct the loaning of money. I have every confidence in the people who manage what will eventually be the Development Bank.

As I said, any time is the right time for the people of this country to have a sense of belonging and to be able to go home at nights and know that they are going to their own. Anytime is the right time. I believe I can speak on behalf of the Opposition that we support these borrowings and we look forward to seeing it become a success to the point where, at least, some Caymanians, even if the \$5 million is not enough, will feel a sense of belonging to their own country. If I may I would just ask that the Government, regardless of how many homes that is intended, look and ensure that the whole country benefits as a result of the passage of this Motion. Thank you, Mr. Speaker.

The Speaker: Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, I have heard so many persons outline their easy-arrived-at conclusions about the results of having society divided between the *haves* and the *have-nots*. There are so many examples in the world that show us that inequality and inequity in regards to the distribution of scarce resources, results with the society being polarised and many of the citizens being marginalised. So, the contribution of the Elected Member from East End is accepted as being another part of a long history of concerns. What we have not been able to address is the practicalities or approaches that can be and should be used to develop strategies that would prevent market factors from determining the relationships between people socially.

The Elected Member from East End mentioned that the construction of pre-engineered or prefabricated homes in this country has been opposed traditionally and that the Government should now not be deterred from finding an affordable solution to low income homes; I agree with that Member. The Elected Member from East End has also entered a dimension into this debate at this particular time, which I find strange. On one hand he is barking and biting and at the same time while suggesting this is a good programme, he is also insinuating that the United Democratic Party might not necessarily be the group we can trust to make sure that the distribution of these houses is fair and equitable across the districts. So, he wants to remind us.

The Member needs to know that I can understand English, not just from the text but the subtext, but from his body language, and his squeaky smiles; that he is intending to suggest to the general public that if his district does not get a certain number of projects it would mean discrimination against them because he is not a member of the UDP. That is the image that this good gentleman has tried to plant in the

minds of persons. What he needs to understand is that from the point of view of the housing policy for this country, it would not necessarily mean that simply because we see a certain amount of money, which I also agree is a very small amount of money, we should start talking about how the money or the policy is going is going to be able to serve every district, or to boost the political ego of every politician at the same time. That is what has also contributed for there not being a much more consistent and defined cure to the situation of low income housing in this country. Politicians want to somehow gain credit and praise for the fact that they have understood that the division of society between *haves* and *have-nots* is not good and, therefore, we can bridge this gap by providing those persons who are making low incomes with assistance with housing and other resources.

I think what we need to make clear in the minds of the public is that this is not going to be a political fight about who gets what and who controls what. I would like to imagine somehow that we can have a housing policy that really seriously attempts to get something started that is feasible and sustainable. We need to have a sustainable housing development programme in this country for low income members of our society. Members who should benefit first of all should be low income persons, whether or not they come from East End or George Town.

Mr. Speaker, I think it is important that if the lowest income groups are supposed to be the ones to first benefit, we should take into account where the housing problem is most severe in this country and not what district he or anyone else comes from. So, we do not have in our resources something defined for Cayman Brac and something defined for George Town, East End or North Side. We have something for the people of this country and where we find the problems more severe; where the incomes are more stressed is where we should begin to attempt to deal with these issues.

My idea is that we need to be practical about this issue because if it was so easy to be solved it would have been solved by previous governments. There are issues here that are more complicated than just a situation of being able to put our hands on \$5 million. If \$5 million, for instance, is divided to produce houses that would cost \$65,000, out of the million dollars how many houses are we looking at? We are looking at 20 houses, maybe less than that at \$65,000 per house cost. So, at C\$4.2 million you are looking at 61 homes.

We do not want to be talking about the fight of whether or not we are going to put three of those 61 homes here and three of those there. It might really be better from the point of construction and the development to concentrate on specific areas where the type of technology he is talking about (the pre-engineered housing), which we should not be discouraged in using, might better be managed.

There are technical issues that the people who are technically responsible and competent for answering should be involved in helping us to develop. We would not want to come to a point where we say that regardless of what money we have, at this particular stage, that it should be divided equally among the districts. It should be employed in such a way that we build a foundation for a sustainable development of low income housing for the persons who can least afford to become a part of the private sector housing market. That is what we need to do.

We need to realise also that this US\$5 million, CI\$4 million plus, which we are able to borrow from the CDB, would not have been possible to get if we did not have the CIDB put into law, which is the same attempt that the Opposition found objections to. I believe that there are steps we must take in making this a reality. One of the first steps is the establishment of a bank that will give the administrative possibility for us to be able to manage money for the development of low income affordable housing in the Cayman Islands.

So, we are now at a stage where we can attract attention because we have a bank. We can attract loans from other places that can come along with the \$5 million to make it \$15 million, \$10 million or \$20 million. However, \$5 million is only going to create division, animosity, jealousy, envy and resentment if we do not see the \$5 million as but the foundation of a future development. This is what the Elected Member from East End needs to make clear in his debate if he wants to help to facilitate consensus to approve of what it is we are doing.

If it is perceived from the very beginning, as if it is a shady exercise that is only going to be done to politically manipulate people at this time, then the public will be suspicious and the investors will not necessarily be encouraged to get involved. I hope that we will have additional investors who come to these shores to do their own commercial projects, see CIDB as a bank where they can lend money at cheap interest rates and the bank can then lend in return to persons who we classify as being in the low income bracket—persons who are making combined incomes of \$4,000 or single incomes of \$3,000, so that those persons will have specific access to it.

What happens also is that we need to look at a number of ways to deal with these issues. We need to look at our building regulations and see how they can be adjusted in order to allow us to be able to develop in specific areas affordable housing.

There is something called centralisation that built civilisation and it has created efficiency and affordability. A lot of people have this idea—even in our Party some people might not necessarily agree with me here, but I would like to say that this idea which we have in this country where everybody must be the same; everybody must have the same car to drive; everybody must have the same house to live in; is an idea that has caused us more suffering than any place

else. Every place in the world that I have travelled to I have seen differences, not only between people, but between the neighbourhoods that the people live in. This is the reason that we do not have it yet. We have had residential segregation in this Island from day one. People have lived in neighbourhoods according to what they could afford, long before tourism came. Back in those days you would see the houses in South Church Street, central George Town and around the city areas. When you go back to where we call the bush, which is where I lived down off of Mary Street and places like that. You would see that the houses in the bush off of Mary Street, at that particular time, were different from the houses on Mary Street. There is such a thing as what you can afford and people should not necessarily feel less because they cannot afford more. It is only the start of their journey towards mobilising themselves forward to reach the goals they want to reach in life, to get the rewards which they feel should be at the end of that goal.

So, when we talk about upward mobility; social mobility; starting in a house that is small and when you get equity you might be able to build on to that house or sell that house and go on to a better house. We have to encourage our people to believe that this is the way the world is. Just because Government can only afford to give you some kind of foundation does not necessarily mean that Government is trying to say that you do not have any worth; that you do not mean anything to society, but it is trying to deal with what it is that we can afford.

If what we are willing to accept is not the end but the beginning in housing, we will see that the Government can produce the number of homes that they are talking about. If we focus, as legislators, and not just as a UDP, on this whole issue of creating this foundation for this sustainable housing development project, what we will eventually find is that a lot of our social problems will become more manageable.

We have so many single mothers. I was talking to one mother a while ago who was talking about the fact that she and her four children are going to be evicted from where they are staying. She works at Fosters; she is a working mother and every time that you go there you can see how hard she is working. We have no solution for her at the moment of the fact that she is going to be evicted and asking what we can do to help her. I am saying to her that we have a lot of people like her and we cannot do anything at this moment but we are trying to put something in place that will give us a possibility to help you.

We have people who are coming to us and saying that they heard we have a housing project going and I am saying that we do not have it going, but we are trying to get it going. This is our intention if people do not become too casual about the urgency; if people remember that there is a great urgency to provide affordable housing; provide housing for single mothers; for families that are working very hard but not earning enough, simply because the wage and the salary sys-

tem does not allow them to be absorbed into the private sector housing market. Government therefore, has a responsibility and this is where the question of resources of government comes into being. This is where the whole issue of revenue enhancement comes into being.

The Elected Member from East End is saying that he does not see what government revenue has to do with this; that we can just go out and borrow and lend it again. That is ridiculous! The fact that that Member voted against the revenue measures and at the same time he knows about the division of the society between the *haves* and the *have-nots*. How are we going to bridge the gap between a *have* and a *have-not* without raising revenue to be able to put the programmes in place and redistribute the wealth at a particular base to have that happen? That is all rhetoric when they talk about division between *haves* and *have-nots* because the *haves* will remain the *haves* and the *have-nots* remain the *have-nots*. They do have any kind of power to change the position between the *haves* and the *have-nots* without the intervention of government. Government intervenes by being able to affect the way in which the resources of the society are distributed.

So, I want the Member from East End to remember that not all of us are in the position now, not to take a stand with regards to issues like the development bank; the improvement in the revenue. If we had borrowed money and not raise additional revenue we would not be allowed by the British Government or the Governor to be able to borrow this money in the first place from CDB. That Member must recognise some of the contradictions that come forward in the casual way in which he presents his position. It is true that had we borrowed more money for the running of the country we would not be able to borrow this money to help with low income homes. We therefore, do not want to separate those two issues because those two issues are very much tied together.

Now, I insist on saying that if we tried, whether or not we are from West Bay or George Town, to think that we should all have a piece of the pie for our constituents at the same time, we are going to run in a system in a very illogical manner.

The development of housing, from the point of view of policy, is what my Portfolio is charged with and I have an executive summary on low cost housing that was passed on to our Portfolio when we assumed responsibility for it. There are many points that were brought out by the committee on low cost housing because there was a committee that was set up. I am not going to bore this Honourable House with this information, but I would like to read the description of the problem as seen by the committee that investigated this.

“The issues associated with affordable decent housing have been problematic for the Cayman Islands for many years. The explosive growth of the Islands, the immigration of unskilled expa-

triate labour and the changing demographics of families have generated a shortage of suitable housing for low to middle income Caymanians and expatriates.

Target Areas

“Target areas will be established through overlay districts to address certain areas that experience the most severe problems associated with low income housing. An overlay district is a geographical boundary outlining a specific area inside of which special regulations will be adopted to address the problem outlined in this paper.

Establishment of income levels and Eligibility

“Those in the lowest income brackets will receive the greatest benefits. Persons and families of moderate income will also be eligible for housing assistance, but not to the same degree as the lowest income Caymanian. Eligibility may be based on the following table”.

They go on to talk about income levels. Therefore, I think it is important for us to realise that I am not just talking about UDP policy. I am talking about a particular policy that has been developed as a result of the ongoing deliberations between Members of the Government and members of the private sector, in trying to arrive at useful definitions that would help us in our attempt to find a way out of this situation.

I want this to be clear from the very beginning because I do not want anyone to accuse me of trying to stop people from getting things in a particular district, simply because they are not Members of the UDP. It has to do with more than that; it has to do with the way in which some of the problems are going to be defined and the way we are going to go about solving these problems.

I want Members of this Honourable House to know that I have always been interested in this particular area of low income housing. However, I do not believe that it should become political in saying that “this person supports me and therefore they get a house and the other one does not support me so they should not get a house”. It should not be that way because the worst thing is that when we make people dependent upon us, we take away their choices. The point is that we want to give people the freedom to respond to their social, political and economic environment in a human manner. Therefore, it is not build dependence but to give people a start to be able to develop their full potential and the potential of their children. Thank you, Mr. Speaker.

The Speaker: Before I call on the next speaker, I want to get an indication as to whether or not we were getting close to a conclusion of debate or to take the luncheon break at this time?

Hon. W. McKeeva Bush: Mr. Speaker, I believe that we could finish although there is the short presentation of a paper, which I will present later on, but I would think we could complete this quickly.

The Speaker: If that is the wish of the House I will call on any other Member who wishes to speak. Does any Member wish to speak?

The Second Elected Member for Cayman Brac and Little Cayman.

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

Mr. Speaker, the concept of Government seeking methods of providing low income (affordable) homes is something that we as a Party has discussed extensively, and have not only supported it verbally, but have now put action in place to ensure that the people of this country will be provided with a relief. I take this opportunity to voice to the country the numerous occasions under which yourself and the Speaker of the House, my colleague, the First Elected Member from Cayman Brac have expressed your support for the country in finding a relief to the demand for affordable housing and low income housing; and also for the support from both of you for the Bill we are currently debating.

It is important to understand that one scheme alone will not solve all the problems that we face. There are varying levels of need and demand in this country. I recently accompanied Ministers on a series of evaluations on several different methodologies under which we think that as a Government we can assist the country. I pointed out at the time that within my constituency, Cayman Brac and Little Cayman that our greatest need was a source of finances. We have a significant portion of our population that have property either by inheritance or it was acquired through various attractive financing schemes that have been in place. I take this opportunity to give credit to Mr. Moses Kirkconnell who has been one of the largest contributors to young individuals of low income, by being able to acquire property as he launched an effort to finance property for these individuals who showed security of employment.

In that particular instance there is one scheme needed, which is looking at simply finding more affordable sources of funds. We have situations in other districts that exist where the individuals simply cannot afford to acquire land; this also exists in my district. So, the scheme must go to looking at the aggregate picture of providing property and housing. We have individuals who can support a normal mortgage financially, but cannot reach the required deposit into the mortgage programme. That is another such scheme. The Government is not fixated on one scheme but we are committed to providing a starting point. We are committed to looking at the current home ownership made equitable, and given our support it is a starting point but we are aggressively looking at other schemes.

I take the opportunity to read a couple definitions of what is called affordable housing. It says: "**Housing for which the household pays no more than one-third or thirty-three and one third per cent of its gross monthly income for its monthly mortgage payments**". That definition is provided by the committee in which the Honourable Minister spoke about during his contribution. That corresponds with the international norm as determined by the Housing Corporation of the United States which stated one third percent of the gross income.

Mr. Speaker, another category: Low cost housing is defined as— "**Housing for which the construction cost are not in excess of CI\$60 per sq ft.**"

Low income is also important to understand because that defines the target individuals that we are catering as being defined. This is perhaps the hardest term to define and it is defined as— "**an annual income of \$34,848**". Below 50 per cent of the medium we have \$1,452 monthly which would be \$17,424 annually.

There is no question that we have a significant portion of our populace as provided in the recent census, that earning less than \$1500 per month is some 52 per cent of our populace. The Honourable Minister for Housing, in his contribution, spoke of a housing scheme of \$65,000 including property. It is my view that that should be our target as something that could cater to the general populace. Sixty five thousand dollars including property would work out to be \$523 per person and to keep with the standard of 33 1/3 of the gross income that individual would be earning \$1,743 per month to be able to qualify. As I said earlier, that is a middle scheme but there are individuals earning below that so we need to look for even lower schemes and maybe we can look towards some of the pre-engineered schemes.

There is no doubt that this Government under the umbrella of the UDP is committed to housing. We have stated it in our vision that we have made widely known; we have stated it in our aims and objectives and we have not only spoke about it; we have now come to the Honourable House seeking approval to put a scheme in place—the first Government to take housing to that dimension.

Talking about the desire to do something for your people—and I would particularly like to mention the Member from East End in his contribution. He exaggerated how involved he was with the past Minister in looking at the housing and how he would offer any assistance that he could to assist the new Housing Minister to achieve housing for the people of the Cayman Islands.

I must inform that Member that whether he realise it or not the people of his district have a great degree of common sense. They can certainly see through such political rhetoric. There are three conditions involved with the assistance of this US\$5 million before disbursements; firstly it is the approval in the Honourable House for the loan which we are seeking

here today and secondly, was evidence of appropriate financial and operational policies and procedures which is governed by the CIDB. The CIDB, which is listed on the loan agreement that we are talking about here today, is a loan agreement between the CDB, the Cayman Islands Government and the CIDB as the executing agent. So, if he really was committed to helping the people in offering such assistance, when he had the opportunity on the 5 December 2001, to vote for and support the CIDB, he should have done so. It would therefore have made it possible for the Government to do what it is doing here today; to go out and seek funds to loan to residents—and as he stated in his contribution—throughout this country, not in any particular district. He has asked and urged that before the end of the day that he be told how much would be coming to his district, East End, which he represents.

I remind him that the slogan of the UDP is "*For all the people*". The people of East End will be assured of that tonight at the UDP's meeting in that district. That Member, when he had the opportunity to support the very instrument that was a prerequisite for this loan and any other income that would be contributed to loan out to these individuals whom he admitted he cared so much about and sought, he did not vote for it. He did not vote for it! He and the Second Elected Member for George Town abstained and the Hansard of the Legislative Assembly will show you, they had an opportunity. This has become a regular pattern of that Member to vote against things and then get up in this Honourable House, misleading the House and the public into thinking that he genuinely supports the programme, when he is not willing to support the instruments necessary to implement these very programmes.

That is evidence and I would like to justify my statement because that very same Member has demonstrated this practice when he voted against the National Budget of the country. He talks about how he really supports extra policing in his district but voted against the Budget to put police on the streets in his district.

That Member goes to the schools and says he is interested in helping the students of East End but he voted against the \$50 thousand in the Budget that was necessary to renovate the school in East End. This is a practice that I do not want to negatively impact the perception of the efforts of the UDP to provide low income housing. He is saying that he is speaking on behalf of the Opposition and gets up there to say that he will genuinely do everything to assist in providing housing, but he would not support the very bank necessary to get this particular facility in place.

Mr. Speaker, I apologise for my passion in this issue, but this is an issue that we truly believe in. The UDP is committed to it and would not allow the Opposition's normal methodology of spreading the propaganda that this is going to be limited to one such dis-

trict or two districts in particular. The Minister of Housing clearly pointed it out. This is an issue that will be prioritised by need. I assure the people of my district and all other districts in this country that we will not allow for any district to be given any greater priority over the other. We will simply look at individual by individual irrespective of district boundaries because the UDP is for all the people.

I, like yourself, whole-heartedly give my one hundred per cent support for this Bill and for other initiatives of providing affordable low cost housing for this country, and I have been invited to express on behalf of my colleague, the First Elected Member for Cayman Brac and Little Cayman.

I urge the Opposition in instances such as this that has such great national importance, which affects the very same individuals who we like to talk about so much, the poor man, the little man—to put politics aside and get up and give your support to this. Use this opportunity to show the country that we as legislators can lift political borders and work together for the betterment of our people. This is a great opportunity to forget about political alliances and work together. I note genuinely, of course, with interest how the Member from East End rose from his seat to make subtle remarks about his support in his contribution. I want it to be assured in my contribution and I am stating that I support it and will support it by not only talking about it but I will vote for it when that time comes. I urge the Members of the Opposition to do the same.

I will now ask for the country to be patient; to believe in the vision of the Government. We have stated quite clearly with a timetable of 12 months that we will deliver. We have stuck to the schedule that we have in place by coming here today to get the support for funds that will be disbursed on the 31st of this month (March). We ask the country to bear in mind that the US\$5 million will not meet all the needs and that those in greater need must be served first. However, they must be rest assured because once they see the programme started they know that their turn will be coming.

I know that once my constituents see individuals getting it, who are in greater need, they will see that their turn will be coming and therefore, will be patient. They will see that the Government is committed to addressing their needs; they will see that the \$55 million borrowed last year by the previous administration, did not prohibit this Government putting a budget in place that was minimal borrowing to a point that the United Kingdom (our mother country) could approve of us, and the CDB could approve of us to borrow such a sum to loan to our people.

On that point I bear your patience for it to be known that as the Honourable Minister for Housing pointed out, these issues are closely related; they cannot be separated. You cannot separate the finances of the country and the borrowing level of the country from what we are doing here today. What we are doing is setting up a loan. We are showing that

the Cayman Islands Government is now in a position to go out and borrow money for a good purpose, not to balance the Budget; not to pay recurrent expenditure. We are in a position where the CDB will show the confidence in the Cayman Islands and the programmes that we are undertaking to loan such sums.

The borrowing of the \$55 million in the year 2001 is something that this country must never forget about. This country must never forget about this borrowing; this method used to balance the Budget because it is important to understand the negative impact that this country has had historically from the largest borrowing package of this country when the country sees that the new Government; this Government came about and had to implement revenue measures; revenue measures versus the borrowing which has put us in a position where we can afford now to assist the people that truly need assistance in this country.

Thank you, Mr. Speaker and thanks to the Honourable House.

The Speaker: Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right to reply?

Hon. George A. McCarthy: Thank you very much, Mr. Speaker. I would like to say thanks to all Honourable Members for supporting this Motion. I should mention that the arrangements for securing this loan was made during the attendance at the Caribbean Development Bank Board of Governors meeting in St. Lucia last year and there was a delegation that was headed by the Leader of Government Business. Also in attendance was General Manager, Mrs. Miller and the Minister of Tourism led the discussion with the CDB in order to put arrangements in place for the loan.

Once again, thanks to all Honourable Members.

The Speaker: The question is that this Honourable House acting in accordance with section 3 of The Loans Caribbean Development Bank, 1999 Revision, gives it approval to the governing counsel to authorise the Financial Secretary to execute a loan agreement on behalf of the Government of the Cayman Islands with the Caribbean Development Bank, for an amount not exceeding US\$5 million being advanced by the Caribbean Development Bank to the Government of the Cayman Islands to provide mortgage financing to assist in the purchase of newly constructed homes, the construction of new homes and the improvement of existing of homes; the administration of which will be carried out by the Cayman Islands Development Bank as the executing agency for the Government of the Cayman Islands together with the principal repayments, interests and any commitment and other charges in respect of the said amount of US\$5 million.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Government Motion No. 3 passed.

The Speaker: I call on the Leader of Government Business.

Hon. W. McKeever Bush: Mr. Speaker, I have given notice since last year on Proposed National Conservation Legislation. I have been waiting on a draft Bill since then and I have just received the draft legislation today. In order to start the process of public consultation I would like to lay on the Table of this Honourable House the White Paper on the proposed legislation. To do that I will ask the Honourable House to suspend Standing Order 14(1) (a) to (e) in order to take Presentation of Papers and Reports.

Suspension of Standing Order 14(1) (a) to (e)

The Speaker: The question is that Standing Order 14(1) (a) to (e) be suspended. All those in a favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 14(1) (a) to (e) be suspended to allow presentation of papers.

PRESENTATION OF PAPERS AND OF REPORTS

White Paper on Proposed National Conservation Legislation

Hon. W. McKeever Bush: Thank you, Mr. Speaker. This proposed Law provides the legislative framework within which environmental matters in the Cayman Islands will be regulated in the future. Regulations that give effect to the provisions of the Law are also currently being developed.

The following summarises the need for new conservation legislation and outline key elements of the proposed legislation.

The Need for National Conservation Legislation

Current environmental legislation in the Cayman Islands is outdated and does not provide Government and the Department of Environment with the necessary regulatory framework to adequately address current environmental issues. A review of the environmental legislation of the Cayman Islands is also legally required to help ensure that Cayman complies

with its treaty obligations under the following International Conservation Agreements:

- i. The Convention on International Trade in Endangered Species of Wild Fauna and Flora, (CITES)—ratified 1976;
- ii. The Convention on the Conservation of Migratory Species of Wild Animals (Bonn)—ratified in 1985 with reservation on sea turtles;
- iii. The Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar)—ratified in 1979;
- iv. The Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartegena)—ratified in 1986.
- v. The protocol to the Cartegena Convention concerning Specially Protected Areas and Wild Life that is called (SPAW)—signed in 1990; and The Global Convention and Biological Diversity (CDB)—ratified in 1992.

The treaty obligations mandate that environmental legislation should have three overriding goals:-

- I. The integration of environmental consideration into the decision-making processes of Government
- II. The protection, conservation and enhancement of the environment and biodiversity; and
- III. The achievement of sustainable development, that is, development which meets the needs of the present without compromising the ability of future generations to meet their own needs.

In addition to the obligations placed on the Cayman Islands by the various international conservation agreements detailed above, the **Environmental Charter** between the United Kingdom and its overseas territories commits the Cayman Islands to a number of actions which will require legislative change.

Key commitments made by the overseas territories governments in the environmental charter are:

1. To ensure the protection and restoration of key habitats, species and landscape features through legislation and appropriate management structures and mechanisms, including a protected area, policy and attempt, the control and eradication of invasive species.
2. To ensure that environmental considerations are integrated within social and economic planning processes; promote sustainable patterns of production and consumption within the territory.
3. Undertake environmental impact assessments before approving major projects and while developing our own growth management strategy.
4. Commit to open and consultative decision-making on developments and plans which may affect the

environment; ensure that environmental impact assessments include consultation with stakeholders.

5. Implement effectively obligations under the Multilateral Environmental Agreements already extended to the Cayman Islands and work towards the extension of other relevant agreements.

6.

It is envisaged that the new legislation will also take into account:

1. the culture and traditions of the Cayman Islands, the need for sustained economic growth and the preservation and enhancement of Cayman's attraction as a tourism and financial services centre;
2. the need to simplify and streamline decision-making procedures and to make them comprehensible and whenever possible, open to the public;
3. that new structures and procedures should stimulate and obstruct or be perceived as an obstruction to sustainable development.

Key elements of the proposed legislation are:

1. The establishment of a National Conservation Council which shall be responsible for the proper administration of the law and which shall exercise the powers and duties imposed on it by the law. The council will consist of representatives of various government agencies, private sector organisations and members of the public.
2. Mechanisms for the designation and management of protected areas.
3. Procedures for the nomination, designation and conservation of threatened and endangered species.
4. Regulatory procedures for the introduction of non-indigenous or genetically altered species of Flora and Fauna.
5. Statutory requirements for environmental impact assessments to ensure the environmental consequences of all major projects and plans are fully examined before their execution is authorised; and
6. Promotion of public awareness of environmental issues and encouragement of public involvement in the decision making process.

The proposed legislation envisages that the national conservation council will:

- a) promote the conservation and sustainable use of natural resources in the Islands;
- b) co-ordinate the establishment and adoption by both the public and private sectors of national policies for the conservation and sustainable use of natural resources including but not limited to—
 - i. use of wetlands and wetland resources, and

- ii. the excavation of aggregate and fill materials;
- c) establish and maintain protected areas and wild life management areas and conserve, maintain and wherever possible, restore their natural resources in accordance with part III;
- d) conserve, maintain and wherever possible, restore population and critical habitats of protected species in accordance with Part IV,
- e) promote the training of professional and voluntary personnel in the fields of research, management and wardening of protected areas, natural resources and protected species,
- f) process application for permits and licences under part V;
- g) hear and determine appeals under sections 31 and 32;
- h) promote public understanding and awareness of the significance of the ecological systems of the Islands, the benefits of conserving natural resources of the provisions of this Law and the Conventions and encourage public involvement in the conservation of protected areas and wildlife;
- i) promote the adoption of guidelines by government departments, agencies and statutory authorities for the integration of conservation issues into the decision-making processes and for the achievement of the sustainable use of natural resources,
- j) promote district, national and regional initiatives including co-operative enforcement measures and mutual assistance and the enforcement of national laws in order to further the objectives of the Conventions;
- k) provide such periodic reports as may be required from time to time under the Conventions or by the Governor,
- l) advise the Governor on the making of orders and regulations under this Law; and
- m) carry out such other powers and duties that may be required under the Conventions or by the Governor.

Some of the Council's functions will necessarily be delegated for the Department of Environment.

The Law proposed, National Conservation Legislation will replace The Marine Conservation Law (1995 Revision) and sections 66-79 of the Animals Law (1998 Revision).

Other laws that may require amendment (or consideration given to incorporating some of their provisions into the new legislation) are:

- Aerial Spraying Protection
- Law (1997 Revision),
- Development and Planning Law (1998 Revision),
- Endangered Species Protection and Propagation Law 1978,
- Explosives Law (1997 Revision),
- Hotel Aids Law,
- Land Acquisition Law (1995 Revision)

As I said the Government has been waiting for some time on this White Paper, the Proposed Legislation. Also, this is part and parcel of our 2000 election campaign manifesto and the policy, as enunciated by myself last year, and now the policy of the United Democratic Party. The proposed legislation will go out and I would hope to be able to present a law sometime in November this year, if possible, may be longer because there are several matters that will affect other situations such as the Turtle Farm. Therefore, it will have to be very carefully reviewed. All in all I am indeed very happy that I now have a White Paper to send out to the public for that process.

I want to thank you, Mr. Speaker, and also the House for allowing this to be laid at this time.

The Speaker: So ordered.

I think that brings us to the conclusion of the events on the Order Paper. Could I have the Motion for the adjournment?

ADJOURNMENT

Hon. W. McKeever Bush: Mr. Speaker, I move the adjournment of this Honourable House, and in so doing, I want to thank all the staff, including kitchen help and also the press for their kind assistance during this State Opening meeting. We propose to adjourn this Honourable House until the 15 April when we will come back here to begin discussions on the Report and the review of the constitutional order of the Cayman Islands. Thank you, Mr. Speaker.

The Speaker: The question is this House do now adjourn until 10 am on the 15 April. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Before we adjourn I would like to thank Honourable Members for their support and to also thank the staff and to wish everyone a happy Easter. I look forward to seeing you all on the 15 April. The House now stands adjourned until 10 am on the 15 April.

At 1.12 pm the House stood adjourned until 10 am Monday, 15 April 2002, for the purpose of commencing debate on the Report of the Constitutional Commissioners.

OFFICIAL HANSARD REPORT
MONDAY
15 APRIL 2002
11.18 AM
Fifteenth Sitting

The Speaker: Good morning.

I shall call on the Honourable Minister responsible for Education to grace us with prayers.

PRAYERS

Hon. Roy Bodden: Let us pray.

Almighty God, from whom all wisdom and power are derived: we beseech Thee so to direct and prosper the deliberations of the Legislative Assembly now assembled, that all things may be ordered upon the best and surest foundations for the glory of Thy name and for the safety honour and welfare of the people of these islands. Bless our Sovereign Lady, Queen Elizabeth II; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office. All this we ask for Thy great Name's sake.

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

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

Proceedings resumed at 11.21 am

The Speaker: Please be seated. Proceedings are resumed.

ADMINISTRATION OF OATHS OR AFFIRMATIONS

The Speaker: The Honourable Temporary Second Official Member and the Honourable Temporary Third Official Member, come forward to the Clerk's table please.

OATH OF ALLEGIANCE

by Mr. Samuel Bulgin

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

The Speaker: Members I think we all have the new Draft Constitution in our mind and we all forgot to stand but perhaps in light of that we should stand at this time.

OATH OF ALLEGIANCE

by Mr. Arthur Joel Walton

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

The Speaker: Honourable Members once again I welcome you to the House and I trust that we will have a productive morning and continuation throughout this day. Please be seated.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

Apologies

The Speaker: I have received apologies for the Honourable Leader, Minister of Tourism for his absence, as well as the Honourable Minister responsible for Community Services.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received statements from the Honourable Acting Leader.
Honourable Acting Leader.

Cable and Wireless

Hon. Linford A. Pierson: Thank you Madam Speaker.

I refer to the front page article of in the *Caymanian Compass* of 2 April 2002, as reported by Mr. John Redman and headlined "**Cable and Wireless Rebuts Minister**". I trust that this clarification will be

given the same prominence by the *Caymanian Compass*.

It seems that Mr. Timothy Adam, General Manager of Cable and Wireless Cayman Islands Ltd., has taken exception to a number of matters that I raised during my recent speech in the Legislative Assembly, introducing the Second Reading of the Information and Communications (ICT) Authority Bill.

Firstly, he objects to me saying that some of Cable and Wireless comments on the Bill were aimed at strengthening their own position. Madam Speaker, I believe these words have been taken out of context. Having twice thanked Cable and Wireless for their constructive contribution to the drafting of the Bill, I said, and quote, **“However, in my opinion some of their suggestions and objections have been, not surprisingly, aimed at strengthening their own position.”** I went on to say, **“This is understandable, and I do not blame them in the least.”** This is hardly damning criticism, moreover, I see no rebuttal in Mr. Adam’s quoted response. Indeed I agree with the comments he makes.

With respect to delaying tactics my comments were accurately reported. As Mr. Adam well knows, I have articulated my policy on liberalisation on many occasions since first announcing it at a Chamber of Commerce lunch in July 2001. There is no policy vacuum. I also may have consistently stated that to date, Cable and Wireless have honoured their public commitment to fully co-operate with Government over the liberalisation of the ICT Sector. Nevertheless, I felt duty bound to advise the Members of the Legislative Assembly and the general public that such co-operation has not been forthcoming with respect to the ongoing special audit of Cable and Wireless being conducted by the Auditor General.

Mr. Adam chose to give some background information “to illuminate the basic facts of the matter”. He then gave his interpretation of these facts, not the facts themselves. I have no option but to respond in some detail to his comments as they omit several salient points and also call into question the independence of the Auditor General.

Let me make it quite clear that the Auditor General is an independent officer appointed under the Constitution of these Islands. The Auditor General reports to the Legislative Assembly, not to Executive Council or to me. Ministers do not direct or control his work in anyway. There is absolutely no question of Government using the Auditor General as some sort of tool in telecommunications policy.

Cable and Wireless is required under the terms of its current agreement to submit annual audited accounts to support the licence fees paid to Government. In his comments Mr. Adam omitted to disclose that his company failed to honour this obligation and did not submit accounts for the years ending 31 March 1997, 1998 and 1999. Thus, when the Auditor General commenced a routine audit of Cable and Wireless licensed payments in early 2000, there was

nothing to audit and his work had to be postponed. Following representations to the company, the outstanding accounts for these years were eventually received in August 2000, some three years late. All of this occurred prior to the last Election and long before I announced Government’s telecommunications liberalisation policy.

In his report in February 2001, the Auditor General disclosed that what appeared to be large errors had been identified in the calculation of licence fees when compared to the audited accounts. The Auditor General staff therefore met with Cable and Wireless’s Financial Controller to request details of their licence fee calculations and explanations of other accounting matters. Shortly thereafter Cable and Wireless paid over \$97,000 to Government as a “computational adjustment” which had previously been short paid by them to Government. The other matters identified have yet to be satisfactorily resolved. I therefore requested the Auditor General to carry out a comprehensive audit from inception of the current agreement in 1992. I have no power to direct the scope of his investigations or how they are carried out.

The Auditor General elected to augment his staff by engaging a firm of forensic accountants with experience in the telecommunications industry. He also sought and obtained the authority of His Excellency the Governor to carry out the audit under the provisions of section 46 of the Public Finance and Audit Law (1997 Revision). Mr. Adam questioned why section 46 was used and what public interest was being protected. Section 46 merely provides the Auditor General the same discretion and powers that are conferred upon him in relation to the audit of public monies and other public property. In order to discharge his functions properly, the Auditor General needs to have authority to examine records and obtain the information and explanation that he considers necessary. I agree with Mr. Adams that section 46 has never been used previously. The Cable and Wireless situation is unusual because their licence fee to Government is based on the company’s profit. These fees are public revenues. In my opinion, it is most definitely in the public interest that the Government satisfies itself that Cable and Wireless has paid the correct fees in compliance with their licence agreement. I do not think this is in any way unreasonable.

From the outset Cable and Wireless and their legal advisors resisted the audit being conducted under section 46 of the Public Finance and Audit Law (1997 Revision). They also strongly objected to the use of the external forensic accountants and told the Auditor General that they would not pay for the cost of the audit. Pending resolution of these points, the Auditor General was asked by Cable and Wireless to remove his audit team from the company’s premises.

Cable and Wireless management controls when the auditors can visit the company’s premises, which employees they can speak to, and which

documents they can examine. They have questioned why the auditors want certain information and have even tried to establish terms of reference or boundaries to restrict the audit. More significantly, the auditors have experienced repeated problems in obtaining timely and complete access to information they consider necessary. That is the main reason why the audit is entering its ninth month.

I cannot say when the audit is likely to be completed much depends on issues that emerge as the audit proceeds and the degree of co-operation and assistance the auditors receive from Cable and Wireless. I am informed by the Auditor General that a number of significant issues have come to light during the audit. Most of these have still to be satisfactorily resolved. Many of these matters are complex and cover several years' operation.

I share with the Auditor General his frustration at the failure of Cable and Wireless to provide reasonable access to their information and premises. Nevertheless, I emphasise that there is no connection between the audit and the liberalisation process either can proceed independently of the other. I merely draw attention to Cable and Wirelesses refusal to co-operate with the Auditor General as an example of behaviour which I will not tolerate, and which I think this Honourable House should not tolerate, in relation the process of liberalisation. I also acknowledge that the audit has placed an additional workload on the company. However, this could have been avoided if licence fees had been correctly calculated and full, accurate reporting done at the proper time. The company's recalcitrant attitude, the delayed accounts, underpayments of licence fees and other matters that the audit has disclosed have served only to focus Government's attention on a possible lack of underlying integrity in the licence payments. In my opinion the unhelpful attitude of the company towards the legitimate activities of the Auditor General can only give rise to a suspicion that it has something to hide. If that is not the case, I urge the company in its own best interest to co-operate promptly and to the fullest extent with the Auditor General.

I want to reassure Cable and Wireless that the Government regards the process of getting to liberalisation and the audit of Cable and Wireless as distinct matters. I also want to warn them that this Government will take all necessary steps to ensure that the appropriate licence fees have been paid and to recover any underpayment. I urge Cable and Wireless to co-operate fully with the auditors so that the various matters under investigation can be resolved as quickly as possible.

With respect to Mr. Adams' final comment concerning anti-competitive practices, I consider it responsible to proactively advise Cable and Wireless that any unreasonable attempts to tie up the market prior to the introduction of competition would be considered anti-competitive practices that would be acted upon immediately by the new ICT Authority. No accu-

sation was made but the rules were clearly stated in advance of them coming into effect. Surely this was the fair approach.

In summary, Madam Speaker, I can see no justification for Mr. Adam's remarks. Further the general public are likely to have been confused by the article. I hope that I now have clarified the issues. Thank you, Madam Speaker.

The Speaker: Thank you, Acting Leader. I believe it your intention to make a second statement. Please proceed.

Deferral of the Debate upon the Report of the Constitutional Commissioners on the Review of the Cayman Islands Constitution commissioned by His Excellency the Governor on 15 June 2001

Hon. Linford A. Pierson: Madam Speaker, on another matter; as all Honourable Members are aware of the adjournment of the House on the 21 March 2002, it was agreed to reconvene on 15 April 2002, today, for the purpose of commencing debate on the Report of the Constitutional Commissioners. Subsequent to the adjournment of the 21 March 2002 His Excellency, the Governor, has agreed to extend the time for public consultation of the Commissioners Report until the 19 June 2002.

Meanwhile we have been advised by the Portfolio for Legal Affairs that there is a need to amend the Judicature Law, as a matter of urgency. Accordingly, we propose to accommodate this request today. Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Acting Leader. Madam Clerk.

GOVERNMENT BUSINESS

BILLS

Suspension of Standing Order 46 (1) and (2)

The Speaker: The Honourable Temporary Second Official Member.

Hon. Samuel W. Bulgin: Thank you, Madam Speaker. I beg to move a Motion for the suspension of Standing Order 46 (1) and (2) to provide for the First Reading of a Bill entitled The Judicature (Amendment) Bill 2002.

The Speaker: The question is that Standing Order 46 (1) and (2) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46(1) and (2) is hereby suspended.

FIRST READING

The Judicature (Amendment) Bill 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for the Second Reading.

Suspension of Standing Order 46 (4)

The Speaker: The Honourable Temporary Second Official Member.

Hon. Samuel W. Bulgin: Thank you, Madam Speaker.

I beg to move a Motion for the suspension of Standing Order 46 (4) to provide for the Second Reading of a Bill entitled The Judicature (Amendment) Bill 2002.

The Speaker: The question is that Standing Order 46 (4) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46 (4) suspended.

SECOND READING

The Judicature (Amendment) Bill 2002

The Speaker: Honourable Temporary Second Official Member.

Hon. Samuel W. Bulgin: Thank you, Madam Speaker.

I beg to move the Second Reading of a Bill for a Law to amend the Judicature Law (1995 Revision) as amended, to ensure that employers pay their employees for the normal employment during the period in which employees are serving on the jury. It is also to provide for the payment of an allowance to employers in certain circumstances and to increase the panel of jurors, and for incidental and connected purposes.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. Samuel W. Bulgin: Thank you, Madam Speaker, I wish to.

There are essentially three proposed amendments to the Judicature Law that this Bill seeks to address. The first amendment is really to ensure that persons who are selected as jurors do not suffer any

loss in income during the period when they are required to serve. Accordingly, a provision has been put in the Bill, which is intended to amend the Law, to provide that where employees are summoned to serve as jurors they would be entitled to their salary or wages during that period of service, as the case may be. If the employer suffers any hardship during the period when the juror is away from the place of employment, that employer is entitled to make a request to Government for compensation to offset the hardship complained of.

If I may, by way of example, just mention one. I can envisage instances where a juror is away from his or her place of employment for three or four months and it would be disruptive of the place of employment to have that juror coming in and working two or three hours per day. Instead what an employer might wish to do, is to employ someone as a locum for that period when the juror is away and would have to pay that person full salary for that period. In those circumstances it is envisaged that the employer would be able to may make a request to Government to recover the amount paid to the substitute employee during those periods because he would have been required to pay two sets of salaries during that time. So, this Bill would seek to address any hardship that would be suffered as a result of any such actions.

The Bill also seeks to increase the amount of jurors who can be summoned to serve on certain cases as the Law currently stands. Most cases except murder and treason would require seven jurors to serve. In cases of murder and treason twelve jurors formed therein. However, there are instances where there are complex fraud matters that have been coming before the court and resulting in protracted trials and during those trials, as is expected, members of the jury might become ill or have to be excused or discharged for a number of reasons. If the amount of jurors is reduced by more than two, the trial would have to be aborted and would then have to start over.

What this Bill seeks to do is to increase the number of jurors who can sit in complex trials and trials that are anticipated would be taking long periods of time to twelve. It is going to be a matter for the discretion of the trial judge, as to whether this is a case for twelve jurors to be empanel and having read the paper, make the determination as to the complexity and likely lengths of the trial. If twelve jurors have been empanelled and any member of the jury should become ill and have to be discharged, as long as the number is not reduced by more than five, then the trial will continue. In other words the jury can continue with up to seven jurors and in those circumstances there would be no need to abort the trial.

There is a trial which is intended to start on 1 May 2002 which is the Euro Bank trial and it is estimated to last any where between four to six months. It is anticipated that given all human frailties someone or a couple members of the jury might become ill during this period. This amendment is really a proactive ap-

proach to cover that eventuality where members of the jury might become ill, in that, no time and expense would be wasted in having to start a trial over. So, this Bill also seeks to address those concerns.

I must say that the issue of the compensation of the jurors was something that was highlighted by the Second Elected Member from George Town and my learning colleague, at a previous sitting of this House where there were certain amendments done to the Judicature Law to increase the array of jurors to serve in Money laundering cases. At that time an undertaking was given to have a look at the issues raised by him and to seek to amend the legislation to address those concerns. It is born out of that, those concerns raised by him, that we have decided to revisit the legislation and have a look at it, and the Government has agreed that it is quite appropriate to address these concerns so that people who were serving as jurors are not put in a worse position than they would have been, had they not been summoned to do their civic duty, which is jury duty in this case.

So, those are the amendments that we are proposing to the Judicature Law and I seek the support of Members of this Honourable House.

The Speaker: Thank you. Does any other Member wish to speak?

The Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I rise to speak on behalf of all Members of the Opposition, in relation to this important Bill. I am grateful to my learned friend, the Acting Second Official Member and to his colleagues for moving this matter along in an effort to ensure that by the time the complex and expected lengthy Euro Bank trial begins these provisions will have effect.

I believe that the proposals contained in this Bill go a long way, in fact almost all the way to addressing the concerns, which I raised some time ago in relation to the compensation of jurors. As, has been alluded to, I believe that the Euro Bank trial is expected to last the best part of six months. It is critical that jurors who are empanelled and are required to serve during the course of that trial, are adequately compensated and be that they do not, as a result of carrying out this very important public duty, have cause for concern that a) they will not be adequately compensated and b) their absence from their place of employment might prejudice the future of their job. I believe that the latter concern is proposed to be dealt with in a Committee Stage amendment, which I have just received notice of from the Honourable Acting Second Official Member.

There is one aspect of this Bill which still gives us cause for concern, and the concern, I believe, arises more out of the logistics of having jurors receive the compensation than of any matter of princi-

ple. However, we believe it is important that this concern also be addressed.

Section 12 (2), provides that: **“Each juror shall be entitled to an allowance of fifty dollars per day for his attendance at court together with a travelling allowance not exceeding one dollar for each mile travelled in order to attend, and the Clerk of the court shall issue to each juror a warrant, countersigned by the court, authorising the Treasury to pay each juror the amount so due to him.”**

Subsection 3 of the same section continues and says: **“Notwithstanding the excused absence provided for in subsection (1), a juror who is an employee shall be entitled to his usual compensation received from his employment less the allowance referred to in subsection (2).”**

What is contemplated is that a juror will receive his salary or his wages from his employer less the \$50 per day allowance plus the travelling allowance. What we see as problematic with that proposal is that it is not usual for the Treasury to pay checks for compensation for jury duty on a weekly basis. There are two instances and I shall deal with the first one first. If an employee is earning less than \$50 per day and if this provision is not amended to ensure that an employer has a continuous obligation to pay that employee's usual salary during the course of his jury duty, we could run into the real problem that the juror might end up taking home no pay at all for some weeks, because the employer's responsibility and obligation under the proposed subsection is that he must pay the employee his usual compensation less the allowance of \$50 plus the travelling allowance.

The other scenario is where an employee is earning more than \$50 per day. Most of us live according to our means (many of us live above them). However, if one have a monthly budget which is based on ones usual income, of say even as much as two thousand dollars a month, but the amount which you would receive as an allowance as a juror is deducted from that on the basis of \$50 a day, \$250 per week, you could wind up at the end of the month with half of what you normally receive by way of income until you receive the check from the Treasury, which might be a month or six weeks down the road. So, in that situation an individual might find themselves, more likely than not, in some degree of financial difficulty.

What we propose to deal with this logistical problem is that subsection, section 12 (3), be suitably amended to impose upon the employer a continuous obligation to pay an employee who is a juror, his usual compensation received from his employment throughout, then place a corresponding responsibility or obligation on the employee to repay the employer the allowance he has received or the part thereof in the case where he is earning less than \$50 a day plus the travel allowance.

We have thought about this matter and we do not wish to make a proposal, which would result in increasing Government's administrative responsibilities and creating more red tape or bureaucracy within the Civil Service. So, as we propose it, while the Law would place the obligation on the employee and make the employee liable to repay the employer, that would be a matter as between them and that Government's only responsibility would be to advise the employer that it had issued the check in whatever the amount was to the employee who had served as a juror. It would then be a matter for the employer and employee to resolve the matter as between them.

In many instances where the employee is earning more than \$50 a day it would simply be a matter of the employee signing the back of the check and handing it to his employer. In those instances where the employee was earning less than \$50 a day, then clearly the calculation would be done and the employee would pay the employer back that portion of the allowance which would properly be the employer's.

As I said, at the start, that is really a matter of logistics. However, it is a real concern and one can see the hardship that could come to bare upon employees if they were deprived of what is their usual income for even one week. Things are tough enough as it is.

There is another benefit arising from the proposed course of action, which we have just put forward. In every instance where pension and health insurance deductions are being made, in most instances the employer pays half of those premiums and if the employer continues to have the responsibility to pay the employee, the usual compensation under the terms of his employment in these circumstances, that administrative aspect of this matter can continue unbroken and without any difficulty or complications which might arise otherwise. In instances, for instance, where the employee is earning less than \$50 a day the employee would, in those circumstances, have had to, not only have been out of pocket for the \$50 per day, which he has not yet received from the Government, but he would have to find his portion of the premium payable in respect of pension. There also arises a question of how the deduction would be made for that individual's pension contribution in those circumstances.

So, for those reasons we offer our conditional support for this Bill. Conceptually it is what the Opposition has sought and we believe it will go a long way to alleviating the hardship and misgivings many in the community have for carrying out one of the most important functions in the judicial system; that of serving as a juror and entitling those who are indicted to a trial by a jury of their peers. I thank you, Madam Speaker.

The Speaker: Thank you, Honourable Member. Does any other Member wish to speak? If no other Member wishes to speak, I shall call on the Temporary Second

Official Member if he wishes to exercise his right of reply.

Hon. Samuel W. Bulgin: Thank you, Madam Speaker.

I am grateful to the Honourable Second Elected Member from George Town, for his usual very insightful contribution to this debate and very important Bill. He has clearly raised some very important points and we intend to take those on board. It would be our wish that at some stage, prior to the House going into Committee that we have an adjournment, subject to the Speaker, of course, to have a look at these proposals to see how it can be incorporated into the Bill.

May I just—for the purpose of the record, highlight what I would have considered a major amendment to the Bill currently before the House, Madam Speaker? The position as it currently stands is that each juror is entitled to a daily allowance of \$10. The Bill proposes to increase that to \$50 per day for the daily allowance and in terms of the mileage, the juror is entitled to, I think it is 20 cents per mile for each mile travelled to attend court as a juror. The Bill seeks to increase that to \$1 per mile and it is Government's view that this is more consistent with present day commercial reality, hence the reason for the increases.

The Speaker: At this time the House will be suspended for a short break.

Proceedings suspended at 12.07 pm

Proceedings resumed at 1.00 pm

The Speaker: Please be seated. Proceedings are resumed.

The Honourable Temporary Second Official Member.

Hon. Samuel W. Bulgin: Thank you, Madam Speaker.

May I express my gratitude to the Honourable House and to Honourable Members, and of course, to you, for the short adjournment to co-ordinate the proposed amendments to this Bill. I intend to move for these amendments at a committee stage and I have given the required notice to that effect.

The Speaker: Thank you. The question is that a Bill shortly entitled The Judicature (Amendment) Bill 2002, be given a second reading. All those in favour, please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Judicature (Amendment) Bill 2002 given a second reading.

The Speaker: The House will now go into Committee to consider this Bill.

House in Committee

COMMITTEE ON BILL

The Speaker: Please be seated. The House is now in Committee. With the leave of the House, may I assume that as usual we should authorise the Honourable Temporary Second Official Member to correct minor printing errors and in such, as in these Bills.

Would the Clerk please state the Bill and read its Clauses.

The Judicature (Amendment) Bill 2002

Clauses 1 – 3

The Clerk:

Clause 1	Short title.
Clause 2	Amendment of section 2 of the Judicature Law (1995 Revision) - definitions.
Clause 3	Amendment of section 10 - panel of jurors for court sessions.

The Chairman: The question is that clauses 1 through 3 stand part of the Bill. If there is no debate I shall put the question that clauses 1 through 3 stand part of the Bill. Those in favour, please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Clauses 1 through 3 passed.

Clause 4

The Clerk: Clause 4 Repeal of section 12 and substitution - allowance to jurors.

The Chairman: The Temporary Second Official Member, I believe there is an amendment proposed for this Clause.

Hon. Samuel W. Bulgin: Thank you, Madam Speaker. There was a notice that was signed initially, which was referred to as a first notice for the purpose of the records (Hansard). I wish to withdraw that notice so the amendments are all consolidated.

The Chairman: The question is that the initial amendment that was put, be hereby withdrawn. All those in favour please say Aye. All those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: The original notice for amendment withdrawn.

The Chairman: Please proceed.

Hon. Samuel W. Bulgin: Thank you.

In accordance with notice No. 2, I as Acting Honourable Second Official Member, give notice that I intend to move the following Committee Stage Amendment to The Judicature (Amendment) Bill 2002 that Clause 4 be amended as follows – In section 12 (3) by deleting the words “less the allowance referred to in subsection (2)” and by inserting after the word “employment” the following words: –“an employer who refuses to pay an employee in accordance with this subsection or who terminates the employment of an employee on the sole grounds that the employee is serving on a jury, commits an offence and is liable to be dealt with in accordance with section 27 of the Grand Court Law (1995 Revision)”

Madam Speaker, may I just ask that where the word “sole” appears in that paragraph in the second line, that the word ‘sole’ not be included. So, it would be “. . .an employee on the grounds that the employee is serving. . .” Also, for the purpose of the record I would just like to make reference to what section 27 of the Grand Court Law states:

Section 27(1) provides: “**without prejudice to any powers conferred upon the Court under section 11(1), the Court shall have jurisdiction to order the arrest of and to try summarily any person guilty of any contempt of the Court or in any act insulting to or scandalising the Court or disturbing the proceedings thereof, and any person convicted under this section is liable to imprisonment for six months and to a fine of five hundred dollars.**” and of relevance, as well, is subsection 2 which says: “**For the purposes of this section, contempt of court shall include any action or inaction amounting to interference with or obstruction of, or having a tendency to interfere with or to obstruct the due administration of justice.**”

The Chairman: Temporary Second Official Member, with the request to delete the word ‘sole’ as it appears in your latest Committee Stage Amendment, the Chair is of the opinion that it is not a consequential amendment and would prefer that that be a motion to amend the amendment. So, let us deal first with the amendment on the Floor. We would put the question and then you would move for the deletion of that said term.

Hon. Samuel W. Bulgin: I am guided by you, Madam Speaker, thank you.

The Chairman: Were you finished moving the amendment as it was before the request to delete that.

Hon. Samuel W. Bulgin: I had completed the first amendment and was moving on with the leave to the other amendments: In section 12(4), by deleting the words "Financial Secretary" and substituting the words "Clerk of the Court"; and finally by inserting the following new subsection after subsection (4) – "When an employee receives the allowance of fifty dollars referred to in subsection (2) the Clerk of the Court shall notify his employer of such payment and the employee shall pay that allowance to his employer or, where the employee's daily employment compensation is less than fifty dollars, such part of such allowance as is equal to such daily employment compensation; and an employee who refuses or fails to pay his employer such allowance commits an offence." Thank you.

The Chairman: The amendment has been duly moved. Does any Member wish to speak further thereto? I shall put the question that the amendment do stand part of the clause. Those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments passed.

The Chairman: Temporary Second Official Member, perhaps at this stage you would move for the specified amendment, asking for the deletion of the term 'sole'

Hon. Samuel W. Bulgin: Thank you, Madam Speaker.

As alluded to earlier, in accordance with the relevant Standing Order I also move for an amendment to this amendment, which would delete the word 'sole' where it appears in the second line of that particular paragraph after the word 'the' and before the word 'grounds' so that the entire passage would read, "an employer who refuses to pay an employee in accordance with this subsection or who terminates the employment of an employee under on the grounds that the employee is serving as a juror, commits an offence and is liable to be dealt with in accordance with section 27 of the Grand Court Law (1995 Revision)." I so move.

The Chairman: Leave granted. The amendment has been duly moved. Does any Member wish to speak to it? If not, I shall put the question that the amendments stand part of the Clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment passed.

The Chairman: I will now put the question that the Clause as twice amended stand part of the Bill. All those in favour please Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 4 as amended passed.

Clause 5 – 6

The Clerk:

Clause 5 Amendment of section 16 - number of jurors in criminal cases.

Clause 6 Amendment of section 20 - Discharge of jury before verdict.

The Chairman: The question is that Clauses 5 and 6 stand part of the Bill. If there is no debate I will put the question that Clauses 5 and 6 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment passed. Clauses 5 and 6 passed

The Clerk: A Bill for a Law to amend the Judicature Law (1995 Revision) to ensure that employers pay employees for their normal employment during the period in which employees are serving on a jury; To provide for the payment of an allowance to employers in certain circumstances; To increase the panel of jurors; and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: The question is that the Bill be reported to the House. All those in favour please say aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: That the Bill be reported to the House.

The Chairman: That concludes proceedings in Committee.

House resumed

REPORT ON BILL

The Speaker: Please be seated.

The Honourable Temporary Second Official Member.

The Judicature (Amendment) Bill 2002

Hon. Samuel W. Bulgin: Thank you, Madam Speaker.

I have to report that a Bill entitled, a bill for a Law to amend The Judicature Law (1995 Revision) was examined by a Committee of the whole House and passed with 5 amendments.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

Suspension of Standing Order 47

The Speaker: The Temporary Second Official Member.

Hon. Samuel W. Bulgin: Thank you, Madam Speaker.

I move for the suspension of Standing Order 47 to provide for a third reading of a Bill entitled, The Judicature (Amendment) Bill 2002.

The Speaker: The question is that Standing Order 47 be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 47 suspended.

THIRD READING

The Judicature (Amendment) Bill 2002

The Speaker: The Honourable Temporary Second Official Member.

Hon. Samuel W. Bulgin: Thank you, Madam Speaker.

I move that a Bill to amend The Judicature (Amendment) Bill 2002 be given a third reading and passed.

The Speaker: The question is that a Bill shortly entitled The Judicature (Amendment) Bill 2002, as amended, be given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Judicature (Amendment) Bill 2002 given a Third Reading and Passed.

ADJOURNMENT

The Speaker: Honourable Acting Leader, perhaps we could have the motion for the adjournment.

Hon. Linford A. Pierson: Madam Speaker, I beg to move the adjournment of this Honourable House until 10am Wednesday, 5 June 2002.

The Speaker: The question is that this House do now adjourn until 10am Wednesday, 5 June 2002. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 1.17 pm the House stood adjourned until 10 am Wednesday, 5 June 2002.

OFFICIAL HANSARD REPORT
WEDNESDAY
5 JUNE 2002
11.30 AM
First Sitting

The Speaker: Proceedings are resumed. I call on the Member for North Side to grace us with prayers.

PRAYERS

Ms. Edna M. Moyle: Let us pray.

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

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

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

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

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

Proceedings resumed at 11.33 am

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

Apologies

The Speaker: Please be seated. I have received apologies from the Leader of Government Business, the Honourable McKeever Bush.

**Matters Which the Chair
Considers to be of Grave Concern**

The Speaker: Honourable Members, I beg your indulgence this morning to express ruling on matters which the Chair considers to be of grave concern.

Firstly, I wish to commence with the following comments: Neither the Constitution nor the Standing Orders of the Legislative Assembly have specific procedures for dealing with proposals for constitutional change. Under the direction of the Governor, the Report of the Constitutional Modernisation Review Commissioners 2002, is scheduled for debate in this Honourable Assembly on 19 June 2002.

In the meantime, a Private Member's Motion has been submitted which seeks a resolution of this Honourable House to the effect that six stated questions in the Motion are of national importance; that in accordance with the Constitution a Bill for a Law to provide for referendum to determine the six issues be brought to this Assembly as soon as practical; that pending the referendum, debate on the Constitution Report be deferred; and the result of the referendum together with the Commissioner's Report and the *Hansard* record of the debate thereon, be forwarded to Her Majesty's Government.

Section 37(2) of the Constitution requires the recommendation of the Governor for the Assembly to proceed on any bill or a motion which, in the Speaker's opinion, makes provision for imposing or increasing any charge on the revenues of the Islands. Likewise, Standing Order 22(2) merely mirrors this stated position. A motion providing for a referendum, in my opinion, as I have ruled, would have the effect of imposing a charge on the revenue of these Islands in the form of the cost of holding the referendum. The shorter *Oxford Dictionary*, Third Edition, includes the definition of "Charge" as a "pecuniary burden or cost."

The responsibilities of modern Speakership are considerable. As the Presiding Officer of this Honourable House, the Speaker is the guardian of all of its privileges. According to the book, *The Office of the Speaker*, penned by Philip Laundry, the Speaker is elected for a constituency, like any other Member reaching parliament, and represents the interest of the community in like manner.

The Speaker's function is to maintain order by enforcing the rules of the House as necessary, to interpret the Standing Orders and the practice of the House, as well as to deal with points of order and to give rulings when called upon to do so. Rulings, once given, stand as precedence in this Honourable House as parliamentary case law, and it may be given pub-

licly from the Chair or privately in response to Members so seeking.

For the record, the Speaker is equipped with disciplinary powers by which he or she can:

- (1) Call Members to order;
- (2) Suspend a Sitting in circumstances of grave disorder;
- (3) Order a Member to resume his or her seat, or withdraw from this Honourable Chamber; or
- (4) Name a Member of the House when a severe penalty is called for.

The Speaker has a particular duty to protect the rights of the minority, which no Speaker will ever fail to do—certainly, not this Speaker. In the exercise of impartiality, neither must he nor she, as Speaker, lose sight of the rights of the majority.

The Speaker is also equipped with powers to rule on admissibility of bills, motions and amendments. The Speaker's office is thus akin to that of a judge and lawyers have frequently, although not invariably, been selected to fit that office.

The office of Speaker, as set out by Philip Laundy, is one of great prestige and dignity and the exaltation is quite a deliberate one designed to sustain authority and honour and independence of that very position.

Honourable Members, let there be absolutely no mistake: As long as God grants me the grace and the honour of occupying this high office, I will not tolerate any reflection on the character of the Speaker or accusation of partiality in the discharge of my duties or any other Honourable Member in this House. In fact, Honourable Members, *Erskine May*, Twenty-second Edition, page 123 states the following: **“In the same way, reflections on the character of the Speaker or accusations of partiality in the discharge of his duties . . . have attracted penal powers of the [House of] Commons”**.

Honourable Members, a Private Member's Motion, which was untitled, was presented to Madam Clerk here in these precincts at approximately 9.05 am on Tuesday, 28 May 2002, being the last day according to Standing Orders for submission of motions. I returned from the United Kingdom on official Government business late that afternoon. To my great deprecation the movers of the said motion took a conscious decision to disclose this motion to the public, prior to obtaining the necessary consent from the Speaker. In my view, it is in breach of well-established procedural guidelines on this Honourable Parliament, despite a reminder from Madam Clerk to this effect.

Honourable Members, I duly considered the Private Member's Motion with utmost care, as it is my custom to do with all matters so appearing before me. As a result, I found the motion to be defective. Once I had made my decision, I notified the mover and the seconder of the motion that I wished to meet with them in the Speaker's office to convey my said ruling. Both the First Elected Member from the district of

George Town and the lady Member from the district of North Side showed up.

The First Elected Member for George Town requested that they needed a few more minutes, which I granted.

I sat in my office only to watch, with my great dismay, the First Elected Member from George Town and the lady Member from North Side utilise this time to smoke outside my office and to converse with the Second Elected Member for George Town. Following that, the request came from the First Elected Member for George Town for the admission of his colleague, the Second Elected Member, to sit in and again I consented.

Honourable Members, I will now read the ruling which I have made, which was conveyed and explained to the First and Second Elected Members for George Town and the lady Member for North Side. The ruling is as follows: **“I have duly considered the above Motion received in the office of the Clerk, 28 May 2002 and find that it contravenes the Cayman Islands Constitution Order 1972 and the Legislative Assembly Standing Orders 1997 Revision as follows:**

“Whereas clause 7, is contrary to Standing Order 24(4); Resolve clause 2, is contrary to section 37(2) of the Constitution and Standing Order 24(2).

“Accordingly, the Motion in its current form [and the operative words are ‘current form’] is out of order. However, subject to it being satisfactorily amended in the Whereas clause 7 and Resolve clause 2 to comply with the provisions of the said Standing Orders and Constitution, it may be resubmitted to the office of the Clerk.

[Signed by the] **Speaker of this Honourable House.”**

Honourable Members, these expressed combined legal constraints (as set out in our Constitution and our Standing Orders) were what compelled me as Speaker to make my rulings. Nothing less. Nothing more.

What options did my ruling then present to the mover and the seconder of the motion? In my opinion, Honourable Members, the options were, and still remain available to the movers of the said motion, to either bring their motion in line with the current provisions of the Constitution and our Standing Orders, or, to keep their motion in the defective mode and play the role of *victim persona*. Each of these options is entirely in the movers' discretion. But make no mistake, Honourable Members, the latter option shall—and I repeat shall—not be taken at the expense of the office of Speaker or any Honourable Member in this Chamber.

Honourable Members, this Chair profoundly depreciates the statements made by the First and Second Elected Members from the district of George Town, which I saw and indeed heard on television last evening and again heard on Radio Cayman this morn-

ing. I find those statements to reflect upon the character of the office of Speaker and I place them within the well-defined category of accusation of partiality in the discharge of my duties as Speaker.

Accordingly, I now call upon the First Elected Member and the Second Elected Member from the district of George Town to rise and retract fully their statements with regard to my rulings with respect to their Private Member's Motion and to the office of the Chair and this Honourable House, offer an apology, unconditional, as I find your actions to be in absolute contempt of this Honourable Parliament.

Mr. D. Kurt Tibbetts: Madam Speaker, if that is a decision that I decide not to take would you care to say what your recourse is? Or would you simply have to do what you have to do?

The Speaker: Honourable Member, I have asked for a complete retraction of the statements and an apology to the Chair, as well as to the Honourable House, as I have ruled that I find it in grave contempt of this House. It is entirely your decision which direction you shall take, and I will act accordingly.

Mr. D. Kurt Tibbetts: Madam Speaker, I certainly cannot do what you say, so you will have to do what you decide to do.

The Speaker: Honourable Members, I will now take a suspension for 15 minutes at which time I summon all Members to reappear in this Chamber. Before so doing, is that also the position of the Second Elected Member? out of the abundance of caution.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. The statements I made yesterday, I made advisedly and as a result of my grave concern about the conduct of the Chair.

The Speaker: So be it. We shall suspend.

Proceedings suspended at 11.53 am

Proceedings resumed at 12.30 pm

RULING BY THE SPEAKER

The Speaker: May I call on the First and Second Elected Members from the district of George Town to rise from their seats?

At this stage (in my opinion) the most offensive aspect of your statements were words to the effect that the Speaker was caused to make the ruling and that there are moves afoot to deprive democracy and to prevent debate on the floor, and that the only way this could be achieved was by refusing the Motion.

I have looked at these statements and others in their context and have confirmed my earlier position

that it is in contempt of this Honourable House. I am minded to deal with this matter under Standing Order 40(4) which refers to disregard to the authority of the Chair and by virtue of Erskine May, page 123, where, in my view, reflections have been made on the character of the Speaker and accusations of the partiality in the discharge of my duties.

I have taken the opportunity to put both of you on notice of the said complaint and the specifics, and the way in which I intend to proceed. In order to ensure that I approach this matter in the most appropriate and considered manner, I propose to now suspend proceedings until 2.30 this afternoon with a view to dealing with the matter at that time. We shall reconvene at 2.30 pm today.

Proceedings suspended at 12.32 pm

Proceedings resumed at 3 pm

SPEAKER'S RULING

(continuing)

The Speaker: Proceedings are resumed. Please be seated.

Honourable Members, before taking the suspension I gave the First Elected Member and the Second Elected Member from the district of George Town an opportunity to withdraw their remarks and to make an apology. Before I proceed with my comments I shall once again offer both Members that opportunity.

The First Elected Member from George Town, the Second Elected Member from George Town, you are given a second opportunity to make an apology and to retract your words.

Mr. D. Kurt Tibbetts: Madam Speaker, unfortunately the position stands as it was.

[Applause from the Public Gallery]

The Speaker: Order!

Serjeant, I would ask that strangers be withdrawn at this time from the Chambers as we shall conduct this Parliament as a House of Parliament.

[Pause - background comments]

The Speaker: I would accordingly draw Members' attention to Standing Order 85(4), which reads as follows: "**Strangers shall withdraw from the Chamber and its precincts when called upon so to do by the Presiding Officer.**" I have so called and you are holding up the proceedings of the House due to your lack of conduct in this Chamber.

[Pause]

The Speaker: Honourable Members, I will take a suspension for five minutes, and five minutes only, to allow the officers who are given the responsibility for order to be conducted in proper decorum to clear the gallery. I would ask that Members remain in the Chamber for this to be done.

Proceedings suspended at 3.07 pm

Proceedings resumed at 3.20 pm

SPEAKER'S RULING

(continuing)

The Speaker: Please be seated.

Standing Order 41(4), (6), (7), (8), (9), (10), (11) and (12) reads:—

“(4) If a Member shows disregard for the authority of the Chair, or abuses the rules of the House by persistently and wilfully obstructing its business, or otherwise, the Presiding Officer shall direct the attention of the House to the incident, mentioning by name the Member concerned. The Presiding Officer shall then call upon a Member of the Government to move “That the Honourable Member for _____ be suspended from the service of the House”, and the Presiding Officer shall forthwith put the question, no seconder being required and no amendment, adjournment or debate being allowed.

(6) If a Member is suspended under any provision hereof, his suspension on the first occasion in any meeting shall continue for one day, on the second occasion for two days and on a third or subsequent occasion for the duration of that meeting and the subsequent meeting.

(7) Not more than one Member shall be named at the same time, unless several Members present together have jointly disregarded the authority of the Chair.

(8) A Member who is suspended under paragraphs (4) and (6) or is directed to withdraw under paragraph (2) shall forthwith leave the House and its precincts.

(9) If any Member who has been directed to withdraw or has been suspended under this Standing Order, refuses or neglects to obey the direction of the Presiding Officer in that behalf, the Presiding Officer shall call the attention of the House to the fact that recourse to force is necessary in order to compel obedience to his direction, and that Member named by him as having so refused or neglected to obey his direction shall thereupon, without further question put, be sus-

ended from the service of the House during the remainder of the meeting or for ten days, whichever is the longer.

(10) If resort to force is necessary the Presiding Officer may suspend the sitting during the removal of the offending Member.

(11) A Member who is directed to withdraw or who is suspended under this Standing Order shall not be entitled to attend the sitting from which he was directed to withdraw or in the case of suspension, to attend any sitting or enter the precincts of the House until the termination of his suspension.

(12) On receiving from a Member suspended under this Standing Order a written expression of regret the Presiding Officer shall lay it before the House, and it shall be entered in the minutes of proceedings. On a motion being made for the discharge of the order of suspension the question thereon shall be decided without amendment or debate. If the question is agreed upon, the order shall be discharged and the Member readmitted”.

Honourable Members, I have come to the conclusion, after very careful consideration of the matters constituting contempt of this Parliament, that the Honourable House, having witnessed the total and absolute disregard for the authority of this Chair, I now have no choice but to rely on the provisions as set out in the Standing Orders (1997 Revision) to deal with this matter now at hand.

I now call and name Mr. Kurt Tibbetts and Mr. Alden McLaughlin. I ask you to so rise.

In accordance with Standing Order 41(4) and (7), I now call on a Member of the Government to move the appropriate Motion as set out therein.

MOTION TO SUSPEND MEMBERS

Standing Order 41 (4) and (7)

Hon. Linford A. Pierson: Madam Speaker, in accordance with Standing Order 41(4) and (7), I move that the Honourable Members, the First Elected Member for George Town, Mr. Kurt Tibbetts and the Second Elected Member for George Town, Mr. Alden McLaughlin, be suspended from the service of the House.

The Speaker: The question is that the Honourable First and Second Elected Members namely: Mr. Kurt Tibbetts and Mr. Alden McLaughlin, from the district of George Town, be suspended from the service of this Honourable House. All those in favour please say Aye.

Ayes.

The Speaker: Those against, No.

Madam Clerk, the next Item of Business.

Noes.

The Speaker: I think the Ayes have it.

Mr. V. Arden McLean: Madam Speaker, may we have a Division?

The Speaker: Most certainly.

Madam Clerk, would you call a Division? Honourable Members, you may kindly take your seat.

The Clerk:

Division No. 3/02

Ayes: 11

Hon. Linford A. Pierson
Hon. Roy Bodden
Hon. Gilbert A. McLean
Dr. the Hon. Frank S. McField
Hon. James M. Ryan
Hon. David F. Ballantyne
Hon. George A. McCarthy
Mr. Rolston M. Anglin
Capt. A. Eugene Ebanks
Mr. Cline A. Glidden, Jr.
Mr. Lyndon L. Martin

Noes: 5

Mr. D. Kurt Tibbetts
Mr. A. M. McLaughlin, Jr.
Mr. Anthony S. Eden
Ms. Edna M. Moyle
Mr. V. Arden McLean

Absent: 1

Hon. W. McKeeva Bush

The Speaker: The result is as follows: 11 Ayes, 5 Noes and 1 absent. The Ayes have it.

Agreed by majority: The First Elected Member for George Town, Mr. D. Kurt Tibbetts, and the Second Elected Member for George Town, Mr. Alden M. McLaughlin, Jr., suspended from the service of the House.

The Speaker: I would accordingly ask the Serjeant-at-Arms to please escort the two Members from the precincts of this Parliament.

The lady Member for North Side.

Point of Clarification

Ms. Edna M. Moyle: Madam Speaker, if I may, just for clarity, how long is the suspension of these two Honourable Members and under what Standing Order?

The Speaker: I have already referred to it, but I have no problem [stating it] again. It is Standing Order [41](6), "**If a Member is suspended under any provision hereof, his suspension on the first occasion [this being the first occasion] in any meeting shall continue for one day . . .**" One day, commencing now at [3.20 pm]. The Members are free to return to the precincts at 3.20 pm on 19 June, being the next available day of Sitting.

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

Caribbean Utilities Co Ltd's 3 per cent Increase

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Thank you, Madam Speaker. As the Government Minister responsible for electricity supplies, I would like to take this opportunity to respond publicly to the recent Press coverage and notification by Caribbean Utilities Company Limited (CUC) that they seek to institute a 3 per cent increase in electricity rates effective 1 August 2002.

With the current state of uncertainty in the global economy and the major issues being faced in our local economy as well, including recent unemployment reports, the Cayman Islands Government considers that a rate increase at this time is not reasonable.

In the financial year 2002, CUC's profits were broadly similar to those reported in 2001 at \$19.275 million, but the Company's rate of return fell slightly to 11.87 per cent. I would like to make a couple of observations on these figures.

Firstly, the present licence that sets a 15 per cent rate of return was established in 1966. In recent years, company profits worldwide have been reduced. In today's market a 15 per cent return would be regarded as generous.

Secondly, the rate of return to CUC has fallen because the company's asset base has increased as a result of investment in generation, transmission and distribution capacity.

Thirdly, dividends to ordinary shareholders for fiscal year 2002 have increased by 13.2 per cent from 53 cents to 60 cents.

The Government is anxious to assure itself that CUC's current and future investment plans are equitable for all stakeholders including shareholders, employers, consumers and the Government. For this reason the Auditor General has been asked to conduct an operational review to address this issue.

Further, it was Government's understanding that last year CUC had agreed to forgo any further rate increases until the full allocated costs of service study had been completed and the Government had had the opportunity to review and consider the results thereof.

The Government is confident that Caribbean Utilities Company Limited will continue to fulfil its considerable community obligations as a leading corporate citizen and the exclusive provider of electricity on Grand Cayman, and will appreciate the Government's position in this regard.

Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Deputy Leader. May I call upon you now to move the Motion for the adjournment?

ADJOURNMENT

Hon. Linford A. Pierson: Madam Speaker, I move the adjournment of this Honourable House until Wednesday, 19 June 2002 at 10 am.

The Speaker: The question is that this Honourable House do now adjourn until Wednesday, 19 June 2002, at 10 am. All those in favour please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it. The House is accordingly adjourned until Wednesday, 19 June 2002, at 10 am.

At 3.35 pm the House stood adjourned until Wednesday, 19 June 2002, at 10 am.

OFFICIAL HANSARD REPORT
WEDNESDAY
19 JUNE 2002
10.25 AM
Second Sitting

The Speaker: I will now invite the Second Elected Member from the district of West Bay to say prayers.

PRAYERS

Mr. Rolston M. Anglin: Let us all bow our heads and hearts as we pray.

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

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

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

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

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

Proceedings resumed at 10.28 am

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

Apologies

The Speaker: Please be seated. I have received apologies from the Third Elected Member from the district of Bodden Town who is off the Island with his wife for medical reasons.

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

**Government's Position to the Petitioners for a
Referendum**

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Madam Speaker, having made a statement to the petitioners for a referendum yesterday, we think it appropriate to restate Government's position making absolutely clear the way forward for this process. And I will read exactly what I said to the petitioners: "**I welcome all of you who are gathered here today to present the results of your petition on certain aspects of the Constitutional Commissioners' Report. The fact that you are here on this occasion suggests that you share our concern that the Constitution is a most important document, and that as Caymanians we all have a responsibility to make an input into what the Constitution will turn out to be. We can all agree that this process of reviewing our Constitution has generated a great degree of discussion and debate, both positive and negative. It is in recognising this and acting upon the wishes of you the people that we sought the Governor's permission to increase the period of consultation from the 5 April to the 19 June.**"

"**We recognise, and I am sure you will agree, that one of the most important considerations in arriving at a modernised Constitution must be that it continues to provide a framework for the future prosperity of our Islands and that it promotes good governance and strengthens our democracy. But we must also ensure that in the final analysis the Constitution is uniquely ours; that it reflects our values and gives due recognition to the history, culture, economic and political structure of the Cayman Islands.**"

"**Today you have exercised your democratic right to present your views through your petition. It is always good for the democratic process when the ordinary citizen from every walk of life can be motivated to participate in something as important as this. I commend all of you for taking part in the Constitutional review exercise in this manner and through the various meetings and submissions that have been part of the process.**"

"**As you know there is broad agreement on most of the proposals in the Constitutional**

Commissioners' Report. And I wish to commend the three Caymanian Commissioners for a job well done.

"In accepting your petition as Leader of Government Business, I give you a commitment on behalf of the Government that it will receive our full attention and we will forward your petition to London for their consideration. Let me also further state that this Government is prepared to honour whatever decisions the United Kingdom Government makes regarding this petition.

"I wish to announce also that the Government will ask Her Majesty's Government to host a delegation comprising of Members of the Government and Members of the Opposition to discuss the Constitutional Commissioners' Report in London.

"Once again, let me thank you all for investing the time and interest in bringing this issue forward. I am confident that as a people we can and will all work together to find common ground during this process and trust that in the end we will all be proud of the Constitution that results from this exercise.

"I can also say that the Government, in an effort to be as inclusive as possible, intends tomorrow to suspend the proceedings of the Legislative Assembly until 3.30 pm so as to allow the two suspended MLAs for George Town sufficient time to have their suspension spent so that they may attend the Legislative Assembly to take part in the commencement of the debate of the Report of the Constitutional Commissioners.

"Thank you".

Madam Speaker, that ended the statement I made to the petitioners yesterday. But further, I can say that as a government we very much need to give this petition due consideration. We have said the petition will be sent to London. The procedure we have taken is that the petitions will be counted and recorded by the Election office officials and the names will be authenticated against the Register of voters. We expect we will have a report by Tuesday of next week. And as I have said we are duty bound to honour whatever position Her Majesty's Government in the United Kingdom makes regarding the petition.

Thank you, Madam Speaker.

Suspension of Standing Order 10(2)

The Speaker: Honourable Leader, I believe it is your intention to move the suspension of Standing Order 10(2).

Hon. W. McKeever Bush: Thank you, Madam Speaker. I move the suspension of Standing Order 10(2) to allow the proceedings of this Honourable House to adjourn before 4.30 pm.

The Speaker: The question is that Standing Order 10(2) is duly moved for the suspension of proceedings. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. Accordingly Standing Order 10(2) is hereby suspended.

Agreed. Standing Order 10(2) suspended to allow the proceedings of the Honourable House to adjourn before 4.30 pm.

The Speaker: May I now have the Motion for the adjournment, Honourable Leader?

ADJOURNMENT

Hon. W. McKeever Bush: Before I move the adjournment allow me to say that the debate on the Constitution is a most important matter. Because of the importance of this issue, and because the Government is keenly aware of the public's interest in this debate, it is only reasonable to expect that the public would want all of their elected representatives to have the opportunity to be present here in this Honourable House and to participate in this historical debate.

In view of the suspension of the First and Second Elected Members from George Town until 3.20 pm today we propose to adjourn until 3.30 pm today in order to afford them every reasonable opportunity to be present and to participate in this signal occasion.

Madam Speaker, at this time I move the adjournment of this Honourable House until 3.30 this afternoon to allow the George Town Members to be present here for this debate.

The Speaker: Thank you, Honourable Leader of Government Business. I shall now put the question that the Honourable House be duly adjourned until 3.30 pm today. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: Accordingly, the House stands adjourned until 3.30 pm today and *not* suspended.

At 10.37 am the House adjourned until 3.30 pm Wednesday 19 June 2002.

OFFICIAL HANSARD REPORT
WEDNESDAY
19 JUNE 2002
3.59 PM
Third Sitting

The Speaker: I will now invite the Second Elected Member from the district of Cayman Brac and Little Cayman to grace us with prayers.

PRAYERS

Mr. Lyndon L. Martin: Let us pray.

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

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

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

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

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

Proceedings resumed at 4.01 pm

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

Apologies

The Speaker: Please be seated. I have received apologies from the Honourable Third Elected Member from the district of Bodden Town who is off the Island due to medical reasons.

GOVERNMENT BUSINESS

**Amendment to the Motion to Debate
The Constitutional Commissioners Report**

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Madam Speaker, in accordance with the provisions of Standing Order 24(7), I, the Honourable Minister for Tourism, Environment, Development and Commerce and Leader of Government Business, seek to vary the terms of the Motion to defer debate on the Constitutional Commissioners' Report agreed by the House on Monday, 18 March 2002 which reads: -

"The Report of the Constitutional Modernisation Review be debated and, if agreed upon, adopted on the 15 April 2002."

i. **by deleting the words "be debated and, if agreed upon, adopted on 15 April 2002" and inserting therefor the words "Commissioners 2002";**

ii. **by inserting at the beginning thereof the words "Be it resolved that this Honourable Legislative Assembly debates and takes note of"**

which in its varied form will read thus –

"BE IT RESOLVED THAT this Honourable Legislative Assembly debates and takes note of the Report of the Constitutional Modernisation Review Commissioners 2002."

The Speaker: The question is that the amendment as is now on the floor, be now debated.

Would the proposer wish to speak thereto?

Hon. W. McKeever Bush: Thank you very much, Madam Speaker. It is my privilege to move that this Honourable Legislative Assembly debate and take note of the Report of the Constitutional Modernisation Review Commission 2002.

As Members of this House well know, this historic debate is the culmination of several years of broad ranging discussions aimed at modernising our Constitution. For many Caymanians, reforming the Constitution may appear to be a technical exercise that has little connection with our daily lives. Of course, nothing could be further from the truth. The great and unprecedented prosperity that we have experienced over the past generation is certainly a

product of the hard work and industry of ordinary Caymanians. But it has also depended to a significant degree on the confidence that foreign investors and visitors to our Islands have had in our political and legal stability.

We have a long standing and deserved reputation for an effective legal system, the protection of personal liberty and public order and an unwavering commitment to constitutional government. These values and commitments are the bedrock upon which our economic success over the past thirty years has depended and been built.

While our existing Constitution has certainly served us exceedingly well, formidable new challenges have emerged in the early years of this new century. Members of this Assembly are well aware of the significant threats to political stability and public security that have emerged in many regions of the world. The globalisation of the world economy means that international capital and investment are increasingly mobile and in search of stable and secure political and legal environments.

The Speaker: Honourable Leader, I take it you are continuing your debate to the amendment of the Motion?

Hon. W. McKeeva Bush: Madam Speaker, I am debating the Resolution as I moved it.

The Speaker: Please continue your debate with the amendment.

Hon. W. McKeeva Bush: Madam Speaker, the impact of globalisation is having disastrous effect on our economy. The financial industry has been affected negatively. Tourism was on a downward slide for the last two or three years. Then along came the disaster of 11 September last year, which added to a 'slowing' in the tourism sector.

The European Union and Britain's responsibilities in the Union cast shadows which are frightening for these Islands and here in these Islands we are arguing sometimes with much bitterness; much name calling; many accusations; arguing among ourselves about a few fireants while elephants are trampling us.

We must have the constitutional ability to deal with the various threats to our way of life and our prosperity. All we have going for us is political stability, the serenity and security of these Islands. If this political stability is shaken, then we will be the worse off for it and long will be our suffering.

The economy of this country and the needs of the people of these Islands are most important to this Government and demand all of our time and all of our efforts. We are not working just 8 hours but 14 hours and 15 hours a day. The problems are just that great.

Madam Speaker, we are facing hard times with much unemployment. We need investment and we need tourism. The state of affairs, this wrangling

and jangling needs to stop. Already we are receiving many enquiries as to what is happening and whether it is safe to visit or to invest.

I can say to this Honourable House that we have put our PR agencies from Finance and Tourism to work to ward off as much damage as possible. In this unsettled world this must be a time to settle matters of contention around a table or in this kind of debate and it should not be on the street. In this kind of forum (this legislature)—and I say to those who wish to take part in the media—we must be guided by reason as to what we say and how we say it.

These new challenges we face make it essential that the modernisation of our constitutional arrangements be a top priority. We must ensure that our laws and our legal system keep pace with the challenging international environment of the 21st century.

I have always trusted the good common sense of the people of these Islands. All Caymanians understand that we cannot afford to be complacent or to rest on our laurels and falsely assume that our reputation and our proud history alone will automatically guarantee our future prosperity.

Indeed, the importance of constitutional reform in all the British Overseas Territories was recognised in the March 1999 White Paper issued by the Secretary of State for Foreign and Commonwealth Affairs, the Honourable Robin Cook. The Secretary of State noted that the partnership between Great Britain and the Overseas Territories creates responsibilities on both sides. The United Kingdom Government called upon the overseas territories to embrace constitutional and legal reforms so that the highest international standards of probity, law and good government would be reinforced and enhanced.

The Constitutional Modernisation Review process was initiated by His Excellency the Governor in May 2001, with the agreement of the then government. It was the Caymanian response to the Secretary's of State call for constitutional reform and modernisation in the Overseas Territories.

We now have in hand the 7 March 2002 Report of the Constitutional Review Commissioners—a Report which proposes the retention of the Westminster model with increased local autonomy falling short of full internal self-government. It is absolutely ridiculous for anyone, except for someone who cannot understand, to say that we are going into full internal self-government, or to say that the Government is taking us into independence.

The Government supports the broad direction of reform proposed by the Review Commission. We believe that the overall approach recommended by the Review Commission as well as most of their specific recommendations will result in a more responsive and accountable government for the people of these Cayman Islands. We are particularly supportive of their proposals to guarantee individual human rights, enhance protection for the rule of law, improve the

functioning of the Executive Council and reinforce the accountability and impartiality of the public service.

Madam Speaker, in my remarks today I hope to achieve three objectives:

Firstly, I want to review the Constitutional Review process that has been followed thus far and remind Members of this Honourable House of the extensive consultation and opportunity for public debate that have preceded the tabling of the Constitutional Review Commission Report and the Draft Constitution.

Secondly, I want to review the proposal set forth in the Review Commission Report and Draft Constitution. I will explain why the Government believes that the vast majority of their recommendations are sound and if implemented, will advance the interest of the people of the Cayman Islands. I will also identify the relatively few areas where the Government takes a somewhat different view from that put forward by the Review Commission and explain the nature of the changes in their recommendations that we would propose. I will further deal with what we regard as a number of misconceptions that have arisen in some quarters since the release of these proposals in March of this year.

Thirdly, I want to speak to the future and the process that we propose to follow, in order to move ahead with the important task of modernising our Constitution. The Government believes that the task of modernising the Constitution is essential to securing our future prosperity—the prosperity of all the people of the Cayman Islands. We, therefore, wish to avoid unnecessary and needless delay in putting forward changes that will increase the effectiveness and responsiveness of our system of Government.

At the same time the Government recognises that certain aspects of the proposed Constitution have generated controversy and the Opposition has now called for a referendum on a number of specific matters.

Madam Speaker, while we do not agree with the Opposition on the merits of their specific objections, we also recognise that it is most important to find common ground and move ahead with a process that is seen by all to be fair and democratic. The Government believes that in constitutional matters there is no room for narrow, political partisanship, and that all Members of this House are obliged to put aside our differences and work together for the common good of the people we serve who elected us.

Let me now turn to a review of the process thus far. The Government believes it is important to recall the origins and the evolution of this debate and in particular the extensive consultation and public debate that has preceded the development of the proposals before this Honourable House. I have already mentioned the United Kingdom Government's March 1999 White Paper that initiated the current reform process, not unlike the debate review more than a decade ago of the 1991 Report of the Constitutional

Commissioners, Sir Frederick Smith and Mr. Walter Wallace.

While certain proposals made by the 1991 Constitutional Commissioners were implemented successfully, a number of others were not. For example, the 1991 Commissioners recommended that a Bill of Rights be included in the Constitution noting that the Constitutions of most other British Overseas Territories included protection for fundamental rights and freedoms.

The 1991 Commissioners also recommended the creation of the position of Chief Minister and Leader of the Opposition arguing that these would enhance accountability and bring leadership and discipline to the functioning of the Government and of the Legislative Assembly.

Notwithstanding the fact that these and other proposals were the product of extensive debate during those years, they were ultimately not included in the Constitutional changes implemented in the 1993 Constitution order. The Westminster (UK) Government March 1999 White Paper picked up where the work of the 1991 Constitutional Commissioners had left off, in my opinion. It pointed out that Constitutional Modernisation is essential to protecting and enhancing the political and economic standing of the Overseas Territories. The White Paper identified a number of key challenges facing the Overseas Territories: these included adopting modern standards of respect for human rights, enhancing respect for the rule of law, promoting more open transparent and accountable government and improving the functioning of legislatures and executive councils, and the accountability and impartiality of the public service.

The proposals for Constitutional Modernisation set out in the 1999 White Paper were debated during the 2000 Election campaign. And anyone saying *not* fails to remember just how much was said about the constitutional development of this country and the modernisation of our present Constitution. It was debated in every district of these Islands and it was debated in various question and answer forums and other forums as well, because I held some forums in my own constituency. They then formed the framework for the Constitutional Modernisation Review Commission—which was appointed by His Excellency the Governor in May 2001.

The joint letter of appointment issued by the Governor, emphasised the importance of the Constitutional Modernisation process and the fact that it would set the framework for the future of the Islands. The terms of reference required that the Commissioners undertake a wide and comprehensive consultative process. And I dare say that the Constitutional Commissioners did that. Consistent then with that mandate, the Commissioners provided members of the public with as much information as possible about the current Constitution and specific proposals for change.

From June 2001 to March 2002 the Commissioners conducted a series of public meetings in all electoral districts and met with representatives of a wide variety of organisations, the Chamber of Commerce included, as well as with Members of the Legislative Assembly and elected Members of the Executive Council then, namely: the First Member from George Town, the Fourth Member from George Town, the Member from North Side, the First Member from Bodden Town, and myself—we met with the Constitutional Commissioners too. As His Excellency noted when he received the Commissioners' Report in March of this year, there could not have been more than a handful of people across the three Islands who were unaware of the Constitution Review process and the call for contributions for the public to have their say in their town halls or wherever they could meet the Constitutional Commissioners.

Moment of Interruption—4.30 pm

The Speaker: Honourable Leader before you so proceed we have now reached the hour of interruption. Perhaps if it is the intention of the House to go beyond 4.30 pm we could have a Motion in that respect.

Suspension of Standing Order 10(2)

Hon. W. McKeeva Bush: Madam Speaker, as we had given our intention we intend to go until 6 o'clock this afternoon and I so move for that to happen.

The Speaker: the question is that the House continues its proceedings until 6 pm today. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended to allow the House to sit beyond the hour of 4.30 pm.

The Speaker: Please continue.

Hon. W. McKeeva Bush: Madam Speaker, following the release of the Report this past March, copies of the proposals were made available to the public and a number of well-attended public meetings were held throughout the Islands. Both the Government and Members of the Opposition agreed that the period for public debate and the proposal should be extended to nine weeks (that is until today) so as to ensure that all interested individuals and groups had more opportunity to comment on the various proposals. In short, it is hard to imagine what more could have been done to ensure public awareness and debate on the proposals before the House today.

The Review Commission Report

Let me now turn to the substance of what is being proposed. By way of introduction I want to indicate that the Government believes that the Report represents a sound basis for constitutional reform. While we certainly do not agree with everything in the Report we do support the general direction of proposed reform and vast majority of the specific recommendations of the Commissioners.

Members of this Honourable House are familiar with the Report and therefore I will just touch briefly on a number of the key proposals.

General Direction of Reform

First and most important the Commission proposes to retain the Westminster model of Government with increased local autonomy falling short of full internal self-government. The existing reserved powers of the Governor would remain intact as would the Governor's role and function in our overall system of government. We support this central foundation of the Review Commission Report unreservedly.

A Bill of Rights

Another key proposal of the Review is the adoption of a Bill of Rights. This is a direct response for the call for increased protection for human rights made in the 1999 White Paper as well as the earlier 1991 Constitutional Review. The proposed Bill of Rights is modelled on international instruments such as the European Convention on Human Rights and the International Covenant on Civil and Political Rights, as well as the United Kingdom's Human Rights Act 1998.

Implementation of this Bill of Rights would mean that Caymanians would enjoy the same freedom from arbitrary interference with their rights as now exist in democratic countries around the world. Some concerns have been raised with respect to the impact on existing religious groups of the proposal to entrench a guarantee for freedom of thought, conscience and religion. In recognition of these concerns the Government has proposed inclusion of a clause that would direct the courts to interpret the right to freedom of thought, conscience or religion with due regard for the impact on the rights of religious organisations and their members.

The wording of this proposed clause is identical to section 13 of Human Rights Act 1998 of the United Kingdom. We believe that such an amendment would address the concerns that have been raised in this regard. That wording is, "**If a court's determination of any question arising under this section might affect the exercise by a religious organisation itself or its members of the constitutional right to freedom of thought, conscience and reli-**

gious, it must have regard to the importance of that right.”

We included that clause after much discussion in our public meetings and at least one religious group did talk to two Members of the United Democratic Party (the Deputy Leader, Mr. Linford Pierson and the Deputy Speaker, Mr. Cline Glidden, Jr.). And so we have done what they have asked us to do. We believe that this gives protection to our religious organisations in this country: our churches.

More generally, we proposed including the wording in section 1 of the Constitution that makes reference to the distinct history, culture, Christian values and socio-economic framework of the Cayman Islands. We believe that this wording will ensure that the courts will interpret the new Constitution giving due attention to the social, cultural and economic context of these Cayman Islands.

A Full Ministerial Style of Government

The Commission proposes that there should be a full ministerial style government with a Chief Minister and a Leader of the Opposition appointed by the Governor. Further, it is proposed that a *No confidence Motion* should be in respect of a lack of confidence in the Government as a whole rather than in respect of individual Ministers.

These changes are long overdue and would bring the functioning of the Legislative and Executive branches of the Cayman Islands into line with that in other Commonwealth countries. That is what the United Kingdom has said we must do. Other Commonwealth countries in particular the United Kingdom's Caribbean Overseas Territories have long ago moved to a system in which there is a Chief Minister. Since this form of government enhances the accountability of government to the voters.

With a Chief Minister and with a Leader of the Opposition, the people have the power to elect the government and determine its policy direction when they go to the polls to elect their representatives. Under that system when voters elect Members of the legislature they vote not just on a local representative but also on whom they wish to see as Chief Minister and Members of the Government.

Further, the various political parties of groupings are required to indicate to the voters the policies and programmes they propose to implement if they form the government. Once elected, they will be responsible for implementing those policies or face the wrath of the voters at the polls, as should happen. This is radically different from the current system under which voters elect individual MLAs who then enter into negotiations to decide who will form the Government. In essence, the difference is that whereas under the existing system the MLAs choose the Government, under the proposed system, the people would do so.

So, no one can say that we are taking any power from the public. Those that say that do not want any change. They only want to perpetuate what has been happening in this country where a minority not necessarily situated in any particular constituency but control – the people would choose. This is the democratic system that has worked effectively for nearly two centuries in Great Britain and in other Commonwealth countries.

Not only would it improve democratic accountability but it would also allow the Cayman Islands to speak more effectively and with one voice on the international stage instead of what [exists] now—going to Brussels or to the Treasury and hearing them say, ‘*Who are you?*’

‘Well, me ma’am, I am the equivalent—

‘Equivalent? Equivalent of what?’

‘Well, I’m equivalent to the Chief Minister of the BVI or Turks, or Anguilla—’.

Madam Speaker, I do not think that is where we want to continue to be. Indeed, the obvious importance and benefit of having a political head of Government is reflected in the fact that over the past decade the Governor has informally designated a Member of the Executive Council as Leader of Government Business. But as the Review Commission Report points out the fact that the current Constitution does not identify a political head of Government, has led to questions as to the constitutionality of the office and confusion over the powers of the holder.

I know that there have been some objections in the Press to the creation of the office of Chief Minister on the ground that the occupant of the office would supposedly have unlimited or dictatorial power. But anyone who has taken the time and trouble to carefully study the proposed Constitution will immediately recognise that these claims are entirely without substance.

Madam Speaker, apart from granting the Chief Minister the power to appoint and dismiss Members of the Executive Council, the chief Minister would function in a manner broadly similar to the existing post, or position, or appointment, of Leader of Government Business. All of the existing checks and balances and the powers of the Leader of Government Business, would continue to apply to the chief Minister. These

include the continuing oversight role of the Governor and Her Majesty's Government in Britain, as well as the important constitutional guarantees of the independence and impartiality of the public service, of the Attorney General in the administration of justice and of the judiciary.

For example, the Draft Constitution proposes a public service commission with a chair appointed. . .

Ms. Edna M. Moyle: Madam Speaker.

The Speaker: Elected Member from North Side let me hear your point of order.

Point of Order

Ms. Edna M. Moyle: On a point of order. I would like to bring to the attention of the Honourable House Standing Order 36(1) says, “**Except on a motion for the adjournment of the House the debate shall be relevant to the matter of question before the House or Committee . . .**” And the question before the House or the Committee now is to amend the original motion that the debate on the Constitution be only noted—and 37(2) also says, “**It is out of order to anticipate a Bill, a motion standing on the Order Paper or any matter of which notice has been given by debate upon an amendment.**”

The Speaker: Thank you.

Honourable Members I did put the question to the Honourable Leader a few moments ago. He responded in the affirmative and until there is a deviation I have to take it that that is the course. I will on conclusion of his debate ask all other Honourable Members if they wish to speak to the amended Motion after which time I propose to put the question dealing with the amended Motion and again I will continue as set out in the procedure to ask whether the Mover wishes to speak to the amended Motion if it is passed. Obviously if it is not passed we will go back to the original provision at which time I will again ask any other Member if he wishes to speak to the Motion as amended and the Mover will then have a right of reply.

Honourable Leader, please continue on your debate on the amendment as proposed.

Hon. W. McKeeva Bush: Yes, Madam Speaker, I thank you very much and I appreciate your grasp of the Standing Orders of this House.

In continuing, for example the Draft Constitution proposes a public service commission with a Chair appointed by the Governor acting in his discretion and an equal number of other Members appointed after consultation with the Chief Minister and the Leader of the Opposition—although we have not heard anyone talk about the powers of the Leader of the Opposition.

The power to make appointments to public offices and the exercise of disciplinary power over public servants are vested in the Governor, acting in accordance with the recommendations of this bi-partisan public service commission; a body which is clearly beyond the control of the Chief Minister.

A similar bi-partisan structure is proposed for the advisory committee on the prerogative of mercy and the electoral boundary commission. And in each case the Leader of the Opposition has the right to make the same number of appointments to these bodies as the Chief Minister. As for judicial appointments these are to be made on the recommendation of a

judicial services commission; a body over which the Chief Minister has no power of appointment or control of any kind.

In short, the claims that have been circulating in the press and elsewhere, to the effect that the Chief Minister would exercise dictatorial or absolute powers, are unfounded to say the least. Even my brief discussion here makes plain that the proposed powers of the Chief Minister will be strictly limited. As in 1991 Constitutional Commissioners, Messrs. Frederick Smith and Walter Wallace commented that apart from the power to appoint other ministers, a chief minister has no authority other than that of his personality. “**A chief minister could not act arbitrarily**”, they noted “**since to do so would be to risk loss of support and thus bring about his downfall**”.

Indeed, the powers of the Chief Minister under the proposed Constitution would be far more limited than those exercised by prime ministers in most other Commonwealth countries including the United Kingdom. I believe that is where those who wish to confuse the issue took advantage of people who did not know the difference: for the Cayman Islands is not an independent country.

I know that in recent weeks there have been visitors to the Islands who have claimed that in other Caribbean jurisdictions Prime Ministers have exercised undue power or influence. I make no comment on whether such claims have any basis in fact, but would simply point out that they clearly have no application to the Cayman Islands situation, where the powers of the Chief Minister under the proposed Constitution would be narrowly and strictly defined. We would be a British Overseas Territory where the United Kingdom has a Governor who has power to veto anything he wants to veto in our present Constitution and the one that is proposed. And where the United Kingdom Government has the authority under their orders in council, which will remain, to keep peace, order and good governance.

The Executive Council

The Constitutional Review Commission has made other recommendations, which would improve the functioning, and accountability of the Executive Council, which we support. In particular, we agree that the Financial Secretary and Chief Secretary positions should be replaced with elected Ministers bringing the elected Members of Executive Council to seven, including the Chief Minister.

We also agree that in accordance with the move to a full ministerial system of government with collective responsibility, a *No confidence Motion* should be in respect of the Government as a whole rather than in respect of individual Ministers.

Term Limits

There has been some discussion of the idea of imposing term limits on Members of the Executive Council but in particular the Chief Minister. As the Review Commission pointed out term limits are not so democratic since they operate to deprive the electors (our people) of their choice of able and experienced representatives. This is not the United States where they have millions of people.

The Review Commission recommended against the idea of term limits and we think they were right to do so. However, we await what the United Kingdom will say about the petition after we have sent that to them.

Recommending and Advisory Bodies

We further endorse the Commission's recommendation to constitutionally recognise or establish a public service commission, an electoral boundary commission, a judicial service commission and an advisory committee to the Governor on the exercise of the prerogative of mercy. All of these bodies, except the Judicial Service Commission, would be constituted on a bipartisan basis. And we agree with this approach.

Provisions for Referendum

The issue of whether the Constitution should make provision for the holding of referenda was a matter of some concern to the Review Commission. The Review Commission pointed out that the Constitution already authorises the Assembly to enact legislation providing for referendum. And it regarded this provision as adequate and appropriate. We agree with the Commission's conclusions on this point.

The Commission also noted that there had been some suggestions made that the Constitution should permit citizens to initiate referendums. The Commission pointed out that if any such right were established it would be important to set out precisely the circumstances, terms and conditions on which such a referendum might occur. For example, it would clearly be inappropriate to permit a minority group to force a referendum on a divisive political or social issue.

The Commission concluded, and we agree, that any provisions for a citizen initiated referendum would require careful attention and this is a matter that should be regulated through enabling legislation rather than being included in the Constitution.

Areas of Disagreement or Areas Requiring Further Study

Madam Speaker, it is evident that the Government endorses the broad direction of reform proposed by the Constitutional Review Commission, as

well as the vast majority of their specific recommendations. However, there are a limited number of proposals on which we take a different view, or, which we believe requires further study.

I want to briefly touch on the areas of disagreement and explain the nature of our concern.

Single-Member Constituencies

While we support in principle the Commission's proposal to introduce single member constituencies, we have concerns with respect to the specific proposals they have advanced. The Review Commission proposes to entrench in the Constitution a defined set of 17 constituencies with the precise boundaries for these constituencies attached as a second schedule to the proposed Constitution.

While the Commission was assisted in drawing these boundaries by the office of the Supervisor of Elections and the Lands and Survey Department, the Commissioners themselves recognised that their proposals required further study and revision. For example, the Commissioners seemingly failed to consider whether the proposed constituencies would serve to divide our people along racial, ethnic, social or economic lines. I am certain that this is a matter that would be of grave concern to all Members of this Honourable Assembly, since it would threaten the social stability and cohesion that have been so central to our reputation and past prosperity.

In fact, the Review Commissioners themselves proposed the establishment of an electoral boundary commission and mandated that as soon as practicable, following its establishment, the boundary commission should report to the Assembly on whether the proposed constituency boundaries ought to be changed.

When the United Democratic Party said that Bermuda is having problems we were laughed at, of course. But I ask Members across if they have not yet done it, to take the time out to do so. Find out what the difficulties are that Bermuda is having with this proposal. Find out if you think it is a joke.

We support the concept of modernising the electoral system in the general direction of single member constituencies as proposed by the Review Commission. However, we believe that the full implications of the Review Commission's specific constituency proposals require careful study and review. Therefore, in our view, it is premature at this time to move ahead with their proposals for 17 single member constituencies.

The Definition of 'Caymanian'

Madam Speaker, we also question the Review Commissioners' proposal to narrowly define Caymanian in the Constitution and to permit only persons who fall within that narrow definition to vote or to be eligible to be elected to the Assembly.

The Commission's definition would exclude any person who holds dual citizenship. We believe that this definition would unreasonably narrow the qualifications for elected members to the Legislative Assembly. If this proposal were adopted, many able Caymanians would be precluded from running for office or voting. We cannot and will not support that.

Moreover, we believe that it is highly unlikely that Her Majesty's Government in London would agree to this change since it runs counter to the direction or reform initiated by the White Paper and reflected in the British Overseas Territories Act 2001. It may be that such a limitation on the right to vote or to stand for election, would be contrary to the United Kingdom's Human Rights Act 1998 which prohibits discrimination on grounds of national or social origin. As well as contrary to the prohibition on discrimination in the proposed section 14 of the Caymanian Bill of Rights.

In our view, the qualifications for election set out in the current Constitution—qualifications, which were previously tightened significantly in 1987, provide a fair and reasonable balance of the interest of all the people of the Cayman Islands. We therefore, do not support the introduction of a definition of Caymanians as proposed by the Review Commission. Rather, we propose the following definition for a Caymanian. I quote, **“a person who possesses British Overseas Territories citizenship, British citizenship or citizenship by virtue of birth outside the Islands and—**

- (a) **Who at the date of his birth had at least one of his parents or grand parents who was Caymanian as herein defined, and who was domiciled in the Islands at the date of such birth, or**
- (b) **Has Caymanian status.”**

The Selection of Speaker and Deputy Speaker

We also do not support the Review Commission's recommendation that the Speaker and Deputy Speaker be chosen from outside the Legislative Assembly. In parliamentary systems the Speaker is more than likely a member of the Assembly. Our existing Constitution currently permits the Speaker to be chosen from outside the Assembly but does not require it. The Review Commission itself noted that this matter was not an issue that provoked a good deal of comment from members of the public.

In our view the flexible provisions of the current Constitution which provide that the Speaker may be chosen either from inside or outside of the Assembly ought to be retained. I cannot forget the battle we had to get a Speaker for the Assembly. That Motion, I believe, I moved at least three times to get the Governor out of the Assembly. We all know what a bad situation that was. The Governor was head of Executive Council and head of the Assembly. Does anyone believe that there used to be any right for McKeever Bush sitting down in that little corner? I remember

well. You would go and talk to the Governor about a situation and he would go and talk to the Government! There was no impartiality in the Chair. And there was no separation of powers. Now they say we must choose someone from outside because that would be fairer. Madam Speaker, are we to believe that everyone does not have some opinion or appreciates one side or the other? We believe the current situation ought to be retained.

Implementation Process proposed by the Commission

The Review Commission proposed that the Revised Constitution should be debated in the Legislative Assembly and then forwarded to Her Majesty's Government for implementation. This was the same process envisaged by His Excellency the Governor when he released the Review Commission Report for public debate and comment in March of this year, and last year also. We did not hear a 'peep' out of anyone at that time about a referendum. At least, not those who sat in this Chamber . . . nobody!

The Government of the day was happy for the Governor to appoint those Commissioners and was happy for those Commissioners to go out and do their work and was happy to take the post that would have been given to them by virtue of a changed Constitution. But nothing was said about a referendum.

The Governor indicated that following a period of public comment the Review Commission Report would be debated in the Legislative Assembly. The Commission Report would then be forwarded to the Foreign and Commonwealth office along with a transcript of the debate in the House for appropriate implementation. That is what the Government then agreed on.

Although the Review Commission proposed that Her Majesty's Government proceeds to draft and enact an Order in Council, implementing their proposed amendments the Commissioners also proposed that their changes not come into force until just prior to the dissolution of the Assembly for the next general election in November 2004.

However, the Review Commission did not provide any explanation or reason for imposing this two-and-a-half year delay, assuming its proposals are acceptable to the Legislative Assembly. And for the record here the Commissioners were: Mr. Benson Ebanks, Chairman (and nobody has to ask whether he voted for McKeever), Mr. Leonard Ebanks (and he ran against me) and Mr. Arthur Hunter (who sat on the Opposition's platform). I needed to put that in the record because I do not remember saying before who the Commissioners were.

Broad Agreement on General Direction of Reform

Before I go on let me say that personally, in the final analysis, I could deal with any one of the

three Commissioners. And I did talk to them and they talked to me as they did with other Executive Councilors at the time.

Despite the considerable public attention that Constitutional Reform has attracted in recent weeks, it is important not to lose sight of the fact that the vast majority of the proposals in the Review Commission Report seem to enjoy the support of the Opposition as well as the Government. I note, for example, that the Motion that the Member from George Town attempted to table on the 28 May identified five controversial issues that emerged from the Report.

What is significant is that these so-called controversial issues are quite narrow and specific and do not call into question the overall direction of reform proposed by the Review Commission. We see no reason to hold these other reforms in abeyance until after the next election. The simple reason why we cannot support such a two-and-a-half-year delay is quite practical. Constitutional uncertainty is costly not only in terms of dollars; everything else you can think about, more divisiveness in this House, more divisiveness on the streets and that has even flowed now into churches.

So, Constitutional uncertainty is costly. Hoisting the entire reform exercise into a state of suspended animation for two-and-a-half years will do nothing to enhance our international reputation. Not only with investors and the financial services and tourism industries, but also with the other nations of the world. The message that we would be sending to the world community is that the Cayman Islands is unable to bring closure to a Constitutional debate that already has gone on for over three years this time. And several years since 1991—well, that is a ten-year span. It will cause far too much internal bickering to the country's disadvantage.

As I said earlier, we cannot assume that global investors or perspective visitors to the Islands will wait for us to get our house in order. Some people thought that about development: "Oh we can chase away development because the Cayman Islands is so good that they will come back at any time". And what do we have? A floundering construction industry which really sets the pace for employment in the country. That is the mistake that we have made in the past. We cannot make that kind of mistake again. We simply cannot afford the luxury of sitting on our hands while our competitors in the rest of the world move ahead.

Madam Speaker, again I want to reassure the Opposition that they will have the opportunity to be participants with the Government in the discussions that will necessarily occur with the Foreign and Commonwealth Office when we visit London later during the year, and following this current process. A delegation composed of Members of the Government and of the Opposition meeting with the Foreign and Commonwealth Office so as to ensure that the implement-

ing Order in Council reflects the views and interests of the Caymanian people.

In conclusion there has been some discussion on referenda and some people have signed the petition and delivered it to me as Leader of Government Business with the other Ministers in attendance. The Government is taking due regard of the people's petition for a referendum and some of the proposals.

At the time of receipt of the petitions I assured the public that it would receive Government's full and immediate attention. I further added that the petition would be forwarded to the United Kingdom for its consideration following a process to authenticate the names. And that the Government would be duty bound by the decision of the United Kingdom. In the interest of openness and transparency, I am hereby inviting two representatives of the People's Progressive Movement together with two representatives from the United Democratic Party to act as scrutineers during the process that is scheduled to commence this evening.

Madam Speaker, we expect that a report will be delivered to the Government by next week Tuesday. Following this, we will forward the petition along with the transcripts of the debate in this House to Her Majesty's Government. In doing so we recognise the people's submissions should be given the opportunity for consideration along with our own position and we are duty bound to accept UK Government's decision regarding this petition. The time for decision is at hand.

We have before us a package of Constitutional proposals, the product of an exhaustive process of consultation and public debate. No one can reasonably dispute the importance of this constitutional modernisation process and the need to provide for more responsible and accountable government for our people.

There is also broad agreement among all Members of this House as to the general direction that constitutional reform should and must take. We have had 171 years of representative government. The world has changed and the people's elected representatives must be given the Constitutional authority to deal effectively with the challenges that beset us. It is our responsibility as elected legislators to provide political leadership for our people.

It is also our responsibility in a debate of this kind to attempt to rise above partisanship and political posturing. The approach which the Government has today proposed, represents a genuine and constructive attempt to address the concerns raised by the Opposition and by members of the public. I expect the Members opposite to set aside partisan considerations and respond positively and in good faith to the proposals so that together we can proceed with the essential task of modernising our Constitution to better serve the interest of all Caymanians.

Madam Speaker, I thank you.

The Speaker: Thank you. Does any other Member wish to speak to the amendment? The First Elected Member from George Town.

Point of Clarification

Mr. D. Kurt Tibbetts: Madam Speaker, before we continue (and just to make sure that I clearly understand) would you allow me to ask a couple of questions on procedure so that I am clear?

The Speaker: Please proceed.

Mr. D. Kurt Tibbetts: Madam Speaker, when the original amendment was moved earlier by the Minister, if I remember correctly, I heard you saying that the debate would continue on that amendment.

Obviously, the Minister has debated the Constitutional Report and the question I have is how do we proceed? Are we going to simply forget about the debate on the amendment and then go on to it? What we have now is an initial debate and believe me, although I do not have to do this, I am simply trying to understand clearly the way forward.

As I understand, what has just transpired is that the amendment was moved and in actual fact what was just debated was the Report of the Constitutional Commissioners. The amendment itself speaks to a change in the original Motion and it was read by the Minister regarding: **“The Report of the Constitutional Modernisation Review be debated, and if agreed upon, adopted on the 15 April 2002.”**;

And the changes that are proposed are **“i. By deleting the words “be debated and, if agreed upon, adopted on the 15 April 2002” and inserting therefore words “Commissioners 2002”; ii. By inserting at the beginning thereof the words “Be it Resolved that this Honourable Legislative Assembly debates and takes note of”;**

And the copy that we [received] reads: **“which in its varied form will read thus—”**

And it gives the amended version: **“BE IT RESOLVED THAT this Honourable Legislative Assembly debates and takes note of the Report of the Constitutional Modernisation Review Commissioners 2002.”**

My question is: Are we debating the amendments that have been proposed, or are we debating the amended Motion? The question, as I understand it, has not been put and we are supposed to be debating the changes. I am trying to get a clear understanding as to where we are going now.

The Speaker: Thank you, Honourable Member.

The precise juncture where we are in the proceedings thus far is that the proposer to the amendment has proposed the amendment and has exercised his right to speak to that amendment. I have now asked whether any other Honourable Member wishes to speak to the amendment. Once all Honour-

able Members [Addressing the Member for North Side: Lady Member I am speaking]—have exercised their democratic discretion to speak to the amendment, I will then ask the Mover of the amendment if he wishes to exercise his right of reply. Of course he can react accordingly.

I will then put the question to the amendment. If it passes, we will then move to the Motion as amended and debate thereon. If it fails, then we will be debating the original Motion.

Mr. D. Kurt Tibbetts: Madam Speaker, having heard what you said, am I to understand then that the Minister who moved the Motion and the amendment has not debated the amended Motion and that entire debate was simply relating to the amendments that were proposed?

The Speaker: Honourable Member, as you have correctly stated in your preamble, I did specifically direct that question to the attention of the Honourable Leader, being the Mover of the said Motion. He responded in the affirmative that he so was and I have to take that word that he has. We will obviously see when it comes to the amended Motion whether or not he is prepared to debate that as well.

I am sure all Members will appreciate, I cannot by any method of extra sensory perception ascertain what the anticipated or projected debate of any Honourable Member will be but to take the Honourable Member's regarding of the Member's word, in this regard.

Thank you.

Are you now intending to proceed?

Mr. D. Kurt Tibbetts: Madam Speaker, I think I understand what you have said. But the reason why I asked the questions is that certainly in looking at the proposed amendments (and I will address them) I would have thought that the debate that was going to proceed, was going to be a debate on the merits and/or demerits of those specific amendments and there afterwards whatever the end result when you put the question, then the main debate would take place.

What seemingly has transpired—and the truth is we thought of that but we did not want to be seen in any way disruptive so to speak but we are now in a quandary as to exactly how to proceed with the debate. I am not really seeking your guidance, I am just trying to say that there is going to be a disjointed situation here because what was just dealt with now is not what I am going to deal with. Whether that was fate playing its hand, or whatever, is another matter.

But I am just letting you know now that what I will be debating will not be the issues that were brought by the Minister. Because as far as our understanding is, those issues relate to the substantive Motion, not the amendments.

The Speaker: Am I to understand Honourable Member that it is your intention to duly debate on the amendments? Please proceed.

Mr. D. Kurt Tibbetts: Madam Speaker, are we closing at 6 pm?

The Speaker: That is the intention that was expressed by the House. Unless a contrary expression is -

Mr. D. Kurt Tibbetts: That is fine, I just wanted to make sure.

Madam Speaker, when we look to the original Motion, which I quote from the *Hansard* of Monday, 18 March 2002, with your permission.

The Speaker: Please proceed.

Mr. D. Kurt Tibbetts: “**Motion to defer debate on the Constitutional Commissioners’ Report;**

“Honourable W. McKeeva Bush: Thank you, Madam Speaker. As agreed by all Honourable Members of this House, I will move that the Report of Constitutional Modernisation Review be debated and if agreed upon, adopted...”

The Speaker: Honourable Member, it has been brought to my attention that what you are seeking to use verbatim is an unedited version and, as you will know that is not permissible. I wish to thank the Clerk for her instructions in that regard.

Mr. D. Kurt Tibbetts: Madam Speaker, as this is an integral part of my submission I would humbly ask for you to suspend that I would be allowed to get the edited version.

The Speaker: Madam Clerk? (Pause) Honourable Member, it is my understanding from the Clerk that there is a list (as Members will appreciate) to be able to get around that. What I would propose to do at this time is to ask the wish of the Members, if there are no objections to it being read into the records, seeing that the persons that the unedited Hansard would normally be sent to are all Honourable Members, for them to scrutinise it and return it to the Hansard.

So, at this time I would ask whether there are any objections from any Members present for it to be read in this form. All those in favour— the Honourable Deputy Leader?

Hon. Linford A. Pierson: Madam Speaker, I would suggest that in view of the fact that this quote here from the Honourable W. McKeeva Bush is pretty well authenticated—this is exactly what he said. Notwithstanding the provisions of the Standing Orders that unedited Hansard [reports] should not be made public, I do believe that in this case it would be in the interest

of transparency and the interest of the good running of this House if we allow this to be accepted and for the Honourable Member to make this quote.

The Speaker: Thank you, Honourable Deputy Leader. Is that the general consensus of all Members present? Very well, I think that [*Mr. Kurt Tibbetts interrupts. The speaker asks to wait one minute and continues*] would be the most prudent way to go and let the records reflect that it is not a deviation from the existing rules of making unedited Hansard present. But as the Member whose quote it is deemed to be expressed has no objections to what has been said, we will take it that the record will reflect that that is the position.

You may now proceed Honourable First Elected Member from George Town.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker. But with your permission I am being as candid as I can. Having heard what the Clerk has said and hearing your initial advice, I would rather not do this and I would rather get the edited version. If you would accommodate me, please.

The Speaker: Honourable Member, that would mean that we could not get it straight away. As you will appreciate that the Hansard reports are sent out to all Honourable Members. They are read, they are sent back and they are edited. It is not a matter of just retrieving a document and that has been the procedure. . .

[Inaudible comment from Mr. Tibbetts]

The Speaker: No, that is what I have been instructed from the Clerk.

There is no objection to it and I am prepared to proceed in that regard. If it were a matter of retrieving the document I would gladly suspend at this stage, but the Clerk—neither is any member of her staff in a position to get an edited version at this stage because that is not how the normal procedure works, I am afraid.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker.

In reading the unedited version of the *Hansard*, with your permission and the permission of this Honourable House . . . As I continue on, reading the Daily Journal [*Hansard*] of Monday, 18 March 2002. **“Honourable W. McKeeva Bush: Thank you, Madam Speaker. As agreed by all Honourable Members of this House, I will move that the Report of the Constitutional Modernisation Review be debated and if agreed upon, adopted on 15 April 2002. Madam Speaker, I will give notice that at that time I will formally move the Motion.”**

Speaking as I quote, **“The Speaker: Honourable Leader is it the intention for the questioning to be put when you formally move the Motion**

for the substantive and to put for the deferral at this time?"

"Hon. W. McKeeva Bush: Yes, Madam Speaker."

The Speaker then says, **"The question is that the debate on the Constitutional Report be deferred for debate and if approved for adoption on the 15 April 2002. All those in favour please say Aye."**

Madam Speaker, the amendments that are proposed as I read before, call for the new version of the Motion to read as follows— **"BE IT RESOLVED THAT this Honourable Legislative Assembly debates and takes note of the Report of the Constitutional Modernisation Review Commissioners 2002."**

So, I will proceed to debate the proposed amendments. Let me say first of all that the sole objective of our group is simply to play our role to ensure that the changes which are suggested and sent to London, reflect the views and have the support of the majority of the people of the Cayman Islands. Let that not be misunderstood at any time.

The Honourable Minister who last spoke, did so on several issues and he has referred to all Legislators coming together—paraphrased: *'to find common ground to be able to move the process forward'*. That too is our intention. It certainly has not been our intention during the process to simply 'stall' as has been suggested, or simply to play politics as has also been suggested.

But there are some fundamental differences in the process, which we believe, first of all, have to be ironed out. Those are the issues which I want to address long before we deal with the Motion itself and/or what we agree on; what we disagree with, as has been put forward by the Minister.

When we go back to the beginning of the process (not in 1991) but the process that began last year and the Constitutional Commissioners were appointed, at that time when they began their task and they began to set out scheduled meetings and such the like, in order to try to accommodate as many of the citizens of the country as possible, to take input and to interact and share views, there may have been seemingly a way forward that was announced. But certainly to my mind, there was no clarity as regards to step by step until the conclusion of the Review process and the end result.

When we knew as to exactly what the entire procedure was going to entail, was when we spoke to the Governor after the Constitutional Commissioners had completed their Report. He had spoken about it on more than one occasion, but there was no detailed outline of what it is. Let me say here today that while some people may subscribe to the thought that all of this is crystal clear and we have to move forward and such the like, the fact of the matter is that many situations have unfolded during the process. It was only

after the fact that it became clear as to exactly where the problems were in the process itself.

When he explained to us—and this was not long before he left—what was going to transpire, his explanation the way forward from here, is as I am going to explain. He said to the Legislators that when the Report is debated in the Legislative Assembly, the Hansard or the transcripts from that debate would be forwarded along with the Report and the Draft Constitution prepared by the Commissioners along with whatever other relevant documents were supposed to be attached and then on to London.

The Constitutional experts in London would then use all of that to prepare a Draft Constitution, which would be sent back to Cayman. The hope was that at that time there would have been very small changes to it. And if that were the case, then perhaps by telephone those issues could be cleared up. If there were difficulties with any areas of the proposed Draft Constitution from London which were not able to be cleared up that easily, then a team would be sent to the Cayman Islands to discuss those issues with the Legislators and whatever other groups or organisations that were deemed of value to the process. And at the end of that, hopefully, they would be able to go back and complete the process and have the final document prepared.

He did say to us that when the debate took place, the process was by no means over. I must admit I do remember hearing him say that. And we have several issues at hand that we now, as representatives of the people, have to deal with.

We do not take the view that regardless of the process that has gone on, that we simply must move the process forward now, even if we are not truly satisfied that what we are putting forward reflects the wishes of the majority of the people. I am pretty sure that I can safely make this statement this evening that while we have our own opinions, either singly or in groups, about which options we should be taking up in proposing the changes, none of us, singly, or in groups, or all together can truly be satisfied in our minds that whatever we are proposing at this point in time, reflects the wishes of the majority of the people. There is a fundamental difference in the approach.

Madam Speaker, I do not have a problem with the views that have been aired and if anyone explains why they think this should be the case. That is a part of the process. We do not have any problems simply with that. What we have to go by—even as I have explained what the former Governor has explained as the process from here on in for us—what we have to go by is what our understanding is of the process that is required. And certainly it is absolutely important to us that the wishes and aspirations of the people must be reflected in what we send to London.

I want to refer—and I have said this certainly before now—to the Constitutional Modernisation Checklist which was sent from the Governor's Office to us some months back, simply to give us an outline

of what the various criteria were under which the entire process would take place and that . . .

The Speaker: Honourable Member, is it your intention to lay the said document on the Table?

Mr. D. Kurt Tibbetts: I do not have a problem with that except I need to get it copied.

The Speaker: That is fine. You can refer to it and then subsequent to that the Serjeant will ensure the necessary copies are made.

Mr. D. Kurt Tibbetts: Thank you. This checklist as I said was given by the Governor, has a list of 18 different scenarios that are put out. They range within a very wide ambit when we speak to the review process and if these are to be followed exactly what has to be done.

The very first one is a statement saying, "**The proposals should be consistent with the United Kingdom's international and treaty obligations.**" It goes on with all the rest of them. But I will not read them all out because I do not think that is necessary.

The one that I wish to speak to is number 18, the very last one of the Checklist. And bear in mind we have absolutely no communication from any quarter, which tells us that there is a difference—that something has changed. We do not have anything that says that. Number 18 reads, and again with your permission I quote:

"1) Do the changes suggested by the Overseas Territories Government [and obviously from how that reads, this Checklist was given to all of the overseas territories during the Modernisation process.] Do the changes suggested by the overseas territories Government [which in this instance would be the Cayman Islands Government] have the support of the majority of the population?"

"2) What is the evidence for such support?"

"3) Has there been "extensive" local consultation (with or without the assistance of a Constitutional Commissioner or Commission) followed by a debate in the legislature in which the suggested changes have been approved by Motion".

This is not my checklist but this is what we have had to go by. My first question throughout this procedure is: Are we taking note of the Checklist that we are supposed to follow? Are we dealing with the specific questions that I have just asked? The amendment that is proposed in the Motion will cause the Motion to read: "**BE IT RESOLVED that this Honourable Legislative Assembly debates and takes note.**"

In number 18 of the Checklist. It refers to— followed by a debate in the Legislature in which the sug-

gested changes have been approved by Motion, not taken note of.

So, the picture that needs to be painted with number 18 is, whatever changes which are being proposed in the Legislature, first of all, all of the Legislators must be convinced that they have the support of the majority of the population. That is the first thing that we have to ensure. It begs the question; what is the evidence to prove that? If we are convinced that what is being proposed has consensus from the majority of the people, and if we are satisfied that we have evidence that can support that, has there been extensive local consultation? We can answer that one. Has that been followed by a debate in the Legislature in which the suggested changes have been approved by Motion?

After we are convinced that what we are proposing has the majority support, we need to find a way to ensure that we are satisfied that we can provide evidence to prove this. We have had some wide consultation and then the Legislature needs to approve those proposed changes and then go off to London.

What we are saying that is fundamentally the problem with the process is, at present we cannot say yes to three out of the four questions in number 18. How are we going to get to that point? Or, are we not going to have regard for number 18 in the process?

What this tells my colleagues and me is that London truly does not want to get into any huge *back and forth* with us. Our responsibility is to be able to arrive at a consensus over whatever those changes are. Once we arrive at a consensus, we send them off to London that they can basically take that along with whatever other documentation must be sent and then take the whole mix and produce a draft. Because in this manner they do not foresee much of a problem after they do that draft for what has been sent to them has basically been agreed upon by the majority.

Now, we can say as long as we wish to truthfully say—I do not have a problem with the question at hand—as the Minister said that the Constitutional Commissioners made every attempt within the time frame that they had to be able to meet and discuss the issues with as widespread a number of the population as possible. I do not argue that. We can extend the thought further and say that it is the responsibility of the citizens of this country to have participated in that process once they were allowed the opportunity. We can say that too.

The question is, in matters like this, and because of the seriousness of the nature of the steps that we have to deal with, Are we going to leave it like that and say that having done that now we must send something forward? Are we going to go back and ask the question whether or not we reflect the wishes of the majority or not?

That is where there is a fundamental departure. The difficulty that we have is whether the onus supposedly rests on the citizens or not. The fact is

that if the majority of them have not taken up the opportunities that were provided for them in the process, two things are missing: the majority of citizens have not expressed their wishes in this instance. One could say that if you are going to get that to happen it would take forever. One could take that view. But this is not any and every situation where there is a piece of legislation and you are going to think it through the best way and you are going to move forward with it.

The Speaker: Is this an appropriate time now Honourable Member as we have reached the hour of 6 pm? Are you now in the position to lay the document you referred to on the Table, or do you need to refer to it tomorrow morning as well?

So ordered.

Can I have a Motion then for the adjournment?

ADJOURNMENT

Hon. W. McKeever Bush: Madam Speaker, I move the adjournment of this Honourable House until 10 am tomorrow, Thursday 20 June 2002.

The Speaker: The question is that the Honourable House be now adjourned until 10 am tomorrow, Thursday 20 June 2002. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 6 pm the House adjourned until 10 am Thursday 20 June 2002.

OFFICIAL HANSARD REPORT
THURSDAY
20 JUNE 2002
10.26 AM
Fourth Sitting

The Speaker: I will now invite the Member from the district of North Side to say prayers.

PRAYERS

Ms. Edna M. Moyle: Let us pray.

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

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

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

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

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

Proceedings resumed at 10.29 am

The Speaker: Please be seated.

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

Apologies

The Speaker: I have received apologies from the Third Elected Member from the district of Bodden Town who is still off the Island with his wife for medical reasons. I have also received apologies for late attendance from the Honourable Third Official Member who will be arriving much later this morning.

GOVERNMENT BUSINESS

Amendment to the Motion to Debate the Constitutional Commissioners' Report

(Continuation of debate thereon)

The Speaker: The Honourable First Elected Member from the district of George Town. For the record, you have spoken for 22 minutes and you have a period of 1 hour and 38 minutes remaining.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker.

When we adjourned yesterday afternoon I was dealing with number 18 on the Constitutional Modernisation Checklist, and I want to pick up from there because as the arguments flow this morning they will continually come back to the point at hand in that section of the Checklist.

Number 18 again reads, "Do the changes suggested by the Overseas Territories Government have the support of the majority of the population? What is the evidence for such support? Has there been 'extensive' local consultation (with or without the assistance of a Constitutional Commissioner or Commission) followed by a debate in the legislature in which the suggested changes have been approved by Motion?"

What we are debating now is an amendment to the original Motion. For ease of reference I will speak to it as the original Motion dealing with adoption of the Report and the amendment dealing with taking note of the Report.

When we look at it, although the Minister moving the Motion has not thus far explained the purpose of the amendment, we have to assume certain things. I believe that if we try to follow the situation logically, it is fair to say that we cannot change the Commissioners' Report. And if Britain has asked if the changes suggested have been followed by a debate in the Legislature in which these suggested changes have been approved by Motion, then to me it puts us in a quandary with regards to the process.

Obviously from the Minister's delivery yesterday afternoon, the Government has some varying views from what the Commissioners recommended. He outlined and explained the position so I would believe then that the Government, having the majority, would not be in a position to adopt the Report because there are some differences.

If we are going to take note of the Report, to me there is a fundamental flaw in the process and it comes back to the question that we have been asking. When the Minister referred to 'we', I am assuming he speaks to the Government and the United Democratic Party. I cannot assume that when he says 'we' he speaks to the majority of the people of the Cayman Islands. As I said yesterday, I do not think any one of us is in a position to proffer any position that we can safely say at this point is what the majority of the people of the Cayman Islands desire as any change to our existing Constitution.

When we look at what number 18 on the checklist says, if this debate which supposedly is centred around the Commissioners' Report is not one which is

going to be approved by Motion, my question is, what are we going to send to London?

We hold the view that the reason why London has set out the parameters under which the Review could be conducted and where recommendations could be made to them, is because they believe that it is not only our right but perhaps almost to the level of an obligation on our part to be able to arrive at a consensus. So when we send what the country wishes as any changes to our existing Constitution, all they have to do is to utilise their Constitutional experts to look at the broad principles that need to be looked at within a Constitution. To examine all of their obligations with regards to the very first one on the Checklist which says, "**The proposals should be consistent with the United Kingdom's International and Treaty obligations.**"

At that point in time when it is sent back to us, they do not have to decide for the Cayman Islands what is best. If what we are sending to them does not reflect the views of the majority and we cannot prove that what we are sending reflects the views of the majority, what is the basis on which they are going to craft a new Constitution? It begs the question, which is fundamental to me and to the entire process.

Now, Madam Speaker, throughout this whole Review process that has taken place, I am advised that the Constitutional Commissioners had this Checklist and in their review they examined all of the points which would be relevant to their portion of the process. They have said that based on the input they have received this is what they believe should be the recommendations.

They have also said that they are satisfied that those recommendations reflect a broad based consensus of the population, even though they qualify by speaking to numbers that they had opportunity to interact and dialogue with and take input from. And I believe that while they have not pointedly stated so, they recognise that those numbers in proportion to voters of the country were small. So they worked with what they had and presented what they thought to be the views of the majority.

We are at a point now where we have the Government proffering some differences in what the Commissioners have reviewed. The question now is, Which view reflects the view of the majority? We come right back to the view that we should send the views of the majority and that we should have evidence to prove that.

We contend this morning that regardless of what someone might say, the process has dragged on. It is time to move on, and all people want to do is to stall it. The fact remains that whatever comes out of this debate cannot be said truthfully to reflect the views of the majority, and that is what London wants. Somewhere along the line, regardless of whether we all have to take responsibility for it or not, we have failed in the process because we are not at the point where what we are sending up reflects the views of the majority.

We have made attempts when the Report was published, to try to meet with as many people as possible to talk to them, to get their views; to explain some of the things that they may not know that we might have had knowledge of; to learn from them because some of them had their views and many of them came up with thoughts

that had not crossed our minds, which is exactly what the process is all about. But we still have in mass the cry from the people of this country that *we want more time*.

Where we draw the line is a very serious question to ask. No one is subscribing to the belief that it should drag on and on. That is not what we are saying by any means; we are saying that this is perhaps the most important time that we have faced. Even if some people do not subscribe to that view, what we believe is that no matter what the desired end result, we must find a way whereby the majority of the people can be satisfied that it is their views that are being sent to London. Regardless of what arguments are put forward today, it is our contention that we are not in a position at this point in time to say that whatever goes up to London is the view of the majority.

The Minister, when he was speaking yesterday, spoke to perhaps a delegation going up to London with representatives of the Government and representatives of the Opposition to speak to London regarding what they should use as the base to build upon and create a Draft Constitution. I thought about that at length last night. It is not unfair from the point of view of making sure that both sides are heard. I have no problem with that. My problem is that it comes back down to the fundamental reasoning that we have not yet achieved consensus in this country as to what we should tell them.

So, what are we going to tell them? All we would tell them is our opinion. It is unfortunate. And again, regardless of the question of where the responsibility lies, what has really transpired through this process after the Commissioners' Report was completed is, we were not able to devise a way when we noticed the reaction of the people to line the situation through that they could have their own opportunity to give their input after that and be able to gain consensus.

If the Government contends that that is not the way the process should work, that is up to them. Our contention is that as representatives of the people, our job is not to take our opinions and give those on behalf of the people. Our job is to ensure that what we pass on, are the opinions of the people. I grant that there are many people in this country, who for more than one reason are not 'up to speed' so to speak, with matters concerning the Constitution: perhaps that is consistent throughout any territory. The difficulty with the whole situation and the whole process is that because we might accept that to be a fact, does not mean that we should not stop and find a way to get to them so that the majority can understand and form an opinion so that we are sure that that is what they want.

With regards to the matter of petition: there is an excess of 7000 signatures on a petition that basically calls for two things: 1) It wants for the debate, the transcripts from which are going to be sent with the Constitutional Commissioners' Report along with other recitals and opinions from other groups and organisations and perhaps from individuals. It wants for that debate to be deferred. The reason why they are asking for that debate to be deferred is because they themselves are still trying to sift through to understand and to say this is what they want because they have not reached that point. That is the first thing. 2) And they are saying because there is no

way in the process thus far, which guarantees that on certain of the issues that are raised, that the opinions that are put forward to London are going to be those of the majority. Let the majority decide by a Referendum. That is what the people are saying.

Madam Speaker, regardless of the thoughts, this is not about us. A new Constitution when it is over and done with (while it will be agreed upon by the representatives of the people), that will not be something that is owned by the representatives. That will be the Constitution of the people. If we look to the fundamental issue that we are faced with, I believe that all of us want at the end of the day for the right thing to happen. I believe that. But the question that keeps coming up is what I believe to be the right thing—the same thing as what the majority of the country believes to be the right thing.

We can come back to the principle that the people elected us. So, as their representatives, we should be with the authority to speak on their behalf. This is not one of those instances. We were not elected with the matters of the Constitution and the issues that have come about that are in question at this time, as part of an election campaign.

If that were the case there would absolutely be no problem. If it had transpired in that manner that there was a review going on and individuals or groups had come out to the constituents and said, this is our position on what is being proposed; if we are elected this is what we are going to suggest to London that should form the framework for a new Constitution. And whoever the people voted in, it is a fair comment and absolutely correct to say that they were elected on that mandate so they have a mandate. But none of us in here has that mandate today and we want to put forward the thought that the Foreign and Commonwealth Office recognises that that is not the case. To speak to evidence in our checklist can only lead to one alternative about certain of the issues if they are contentious and not able to be agreed upon by all concerned. And that method can only be via referendum.

The question comes: When do we do a referendum? It can be debated back and forth as to at what point in time, if there is to be a referendum, it should be done. I know that. But I come back to point 18: London has clearly stated in their checklist that when they are going to draft a constitution they want the changes that are suggested to show evidence of the support of the majority of the population. And there should be a debate in the Legislature in which the changes that are suggested have been approved by Motion obviously meaning, by majority. Taking note, as is in this case, in no way complies with that, unless the Government knows what we do not know. That has to be the basis of our argument as representatives of the people.

We have no other evidence to go by; if London has changed its mind the country should have been advised. Not just me, not just the Members on

this side of the floor but the whole country should have been advised. Let me explain this: Regardless of who does not agree or like the argument, the reason why so many people are asking for this debate to be deferred is because they believe that whatever is sent now is going to be it. They do not think they have had the opportunity to give input in the right way yet. That is what they believe and based on what they had to work with and their understanding of the process, what else can they believe? They have clung to the Referendum issue, because if that is the only sure way to know the opinions of the majority, let the people speak in that method [*referendum*]. That is where the whole argument is.

If the process is not what I have just said it is, then the country needs to know: the people need to understand. As I understand it, and with your permission I quote from a meeting that was held in Cayman Brac quite recently—this was simply one of the speakers explaining the process as he understood it, I am sure. It reads: **“Once this issue is debated, this House will take note, send the *Hansard* which is a copy of the minute, through His Excellency The Governor to the Foreign and Commonwealth Office and they will look at the Commissioners’ Report, the letters that came from Chamber of Commerce, The Cayman Ministers Association, The Caymanian Bar Association and anyone else who made representation including the petition.**

“The United Kingdom, not the UDP, not Lyndon or Julianna, will draft what they see fit as being a Draft Constitution. When that comes back that is the document that will be the guiding document for the final version. It is at that time we will come back to you the people and explain the position and if there are positions to be discussed, for example if the UK Government comes back and accepts the One Man One Vote principle. . . that is the time that we need to do the petition and the referendum. . . not waste money now and then have to do it again when it comes back.”

The Speaker: Honourable Member is it your intention to lay that on the Table seeing that you have referred to it verbatim?

Mr. D. Kurt Tibbetts: I certainly can, Madam Speaker. It was, as I understand it, a tape with that section that was just transcribed. I do not have a problem with that.

The Speaker: So ordered (for the laying).

Mr. D. Kurt Tibbetts: The reason why I quoted what I just did, was because that was the only time that I heard what might have been an identification of the process by a representative of the United Democratic Party. So, what that is saying is, *Is the process certainly going counter to what the Checklist says? Again it begs the question, Has the process changed, and if so, are the people aware of any changes in the process?*

We on this side of the House, the Members of the People’s Progressive Movement, (the Movement that the Second Elected Member from Cayman Brac calls the

'PP Movement,') do not wish to, in any way, stymie the process, but we would be failing our duty as representatives of the people if we do not hear what they are saying. We have to act in accordance with that and that would appear to be the fundamental difference in how we view the process going through as to how the Government views the process.

There was a question raised yesterday and the Leader of Government Business spoke to when the Review was announced and the then Governor had talked about the process that the Government at that time was not speaking about any referendum. And when the Government at that time thought of the positions—I cannot quote him verbatim but I speak as my understanding is of it—that would have been available, no one said anything about it. I want to make it absolutely clear today with no reservations whatsoever that I, being a part of the Government at that time, and the Representative from North Side, did not envisage any change to take place in the Constitution before the next Election. I do not care what rumours are put out.

There is a major difference in how people think (and I am singling myself out.) There is nobody in here who can go into my mind and say something and truthfully know what is in there. However, that was not a point that was laboured, so I will not labour it. But I had to take this opportunity because I know how it works. Some see it a very integral part of the political process to keep whittling away at an individual's credibility and other things. That is the way you get rid of them and it has worked; I know it has worked. But I know me.

Getting back to the point: We come to the juncture where there is a fundamental difference in how we see the people being involved in the process and what would appear to us to be a departure from that principle to see whether or not the process can continue on because the people have already had their say.

Perhaps a better idea is, rather than a delegation going to London to speak to them, why not as the former Governor suggested when he explained to us what the process would be, *ask London to come here that they can hear what the people have to say?* Let us do it like that and then there is no chance for any one of us, who might be on such a delegation, not being sure of what we are saying reflects the views of the majority. Let us think of it like that.

I come back again to number 18. We really would like to know how Her Majesty's Government is going to react when they get the *Hansard* of this debate and whatever else accompanies the Report. And when they look at their checklist and ask themselves the question: *'Do we go by the opinions put forward with the majority of the legislators as has been put forward in the presentation yesterday because that represents a majority in the House?'* *'What evidence do we have that those views reflected by the majority within the Legislature also reflect the views of the majority of the people?'* *'The Motion is a 'take note' Motion, so what is it that the Legislature have approved to be sent to us?'*

I can only see with good reason that those questions will be asked and we contend today that if there is no change in the Checklist, London is not going to be able to use the Report and whatever else accompanies it to be able to draft a Constitution and be satisfied in their

minds that the draft that they have completed is going to reflect the views of the majority.

The only thing that they can be absolutely sure of, given the scenario that we have now, is that whatever they draft will comply with it being consistent with the United Kingdom's own international and treaty obligations: nothing else.

Madam Speaker, I want to get back to the issue of referendum—if I understood the Leader of Government Business correctly when he spoke to the petition by saying that the petition will be forwarded to London and that the Government would honour whatever London says. Again, not quoting verbatim, but that was my understanding of what he said, I can only conclude from that statement that the petition along with the signatures would be sent to London to ask London the question, *Should we do a referendum or not?*

If that is the case, then I contend London is going to reply by saying *'That is none of our business, it is yours.'* We have at present the provisions in the Constitution for a referendum to take place. Those provisions call for a resolution to be passed in this House which would trigger for a Bill to be brought specifying what should take place. And once the Bill is approved the referendum takes place, the issue is dead until the next time around. That is the way it works now.

We made an attempt that was unsuccessful, but it does not matter who does it. What has to be decided is whether this Legislature accepts that it is the wish of the people to go that route. It does not matter what the results are at present. It is totally possible that we might have a position on an issue that if a referendum took place the majority of the people hold the opposite view. We would have to respect that.

So the call for a referendum has no bearing on what we want to be the results. We simply want the results of whatever the people say, regardless of what their individual views are. The key to that in the whole process is to ensure that the people of this country understand the issues. What we are quite prepared to do, as we have been making attempts to do in the past, is not to try to inculcate in the minds of the people what they should do about the issues, but rather to discuss them and show them the merits and the demerits as we see it; to hear from them and to allow them from an informed position to be able to make their own decisions. That is what the process is all about. That is what we contend.

Even though we identified certain specific issues it need not be held to that position. We are not averse, if other issues are in the fore, to deal with those also. I do not have a problem with that. So, we have to decide whether or not we accept the wish of the people and go that route. If we do not go that route, then the Government has to determine a way to ensure that the views of the majority are what they send to London.

Madam Speaker, let us look at the timing of things, albeit arguments can be put forth as to why this last minute effort. That is the way life is.

The Civil Service: It was decided that in the petition which was calling for an action on the part of Gov-

ernment, and because General Orders stated that they could not participate in a petition which called for an action of the Government, the Civil Service cannot participate in the process.

There are perhaps (without being exact but close enough to use the figure when all are considered) some 4,500 civil servants. If we want to get very technical—and I do not want to blow the word ‘Civil Servants’ out of proportion when I say 4,500. I mean Government employees or quasi Government employees. I think all of those numbers put together come up to about 4,500. By percentages that we know in the past it is easy to say and not be far off that somewhere between 2,500 and at least 3,000 of those are voters. We do not know what their thoughts are on a referendum because they were not allowed to participate. I get to understand that they are doing something internal. Just to get a feel as to whether they would like to see a referendum take place in this situation. They will not know that until the 24th.

The Chamber of Commerce is sending out numerous questionnaires. That too will take some time but I do not know the deadline for that. I do not know when they are going to have the results of that.

So, we are right now in the middle, on top of the signatures that are on a petition of trying to determine through other means whether that is what the country wants or not. Do we as representatives of the people take it on our own to say that is not the route to go?

The Speaker: Honourable Member is this an appropriate time for us to take the morning break?

Mr. D. Kurt Tibbetts: Yes, Madam Speaker.

The Speaker: We will suspend 15 minutes for the morning break.

Proceedings suspended at 11.17 am

Proceedings resumed at 12.01 pm

The Speaker: Proceedings are resumed. Continuing the debate the First Elected Member from the district of George Town with a remaining time of 52 minutes.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker.

As I continue on—and I think we are nearly there now—I just want to touch back on the Motion and the amendment because it struck me as I read the original Motion, which as I read from the Daily Journal [*Hansard*] of March 18, the Minister says, “**I will move that the Report of Constitutional Modernisation Review be debated and if agreed upon adopted on 15 April 2002**”. We know that that time was extended so naturally that time would change. The amendment will cause the Motion to read, “**BE IT RESOLVED THAT this Honourable Legislative Assembly debates and takes note of the Report of the Constitutional Modernisation Review 2002.**”

So, the original Motion would have lent to the possibility that if it was not agreed upon that the Report could not be sent. The amendment calls for taking note obviously allows the Report to be sent but

with whatever other opinions that may vary from the Report being allowed to accompany it.

As we have contended before, looking at the amendment and the original Motion, and what the amended version would be like, makes it impossible on our part to support the amendment. Especially since that is what we are dealing with as it does not confirm, as I have said before, to number 18 of the Constitutional Modernisation checklist. Madam Speaker, forgive me if I keep referring to that. It is because it is a little bit long and it had three or four different questions in it, and focus has to remain on those questions in outlining the arguments as to why we cannot support the amendment.

It was not long before we took the break that I referred to the referendum and the fact that the Civil Service was conducting their own survey among the civil servants (Civil Service Association) to try to determine what their views were.

There is also the Chamber of Commerce survey. Timing has a lot to do with all of what we have talked about if we are going to be sure that what is sent to London reflects the wishes of the majority of the people. Some questions come to mind: *Are we going to take notes of the results of these two surveys? When is the collated package going to be sent to London?* It is my understanding that His Excellency the Governor will have a say in when this goes off to London. I do not know what his views are as to when that timing should be, or what he will deem [necessary] to be included in the package for London to consider. What we do know is that we contend that whatever that combination is, there must be a clear message as to what the wishes of the majority of the people are. That has been the focus of the debate with regards to the Motion. The amendment that we speak to now does not allow at the conclusion of the debate for what London wants to operate with to be sent to them. Because there will have been no debate in the Legislature in which the changes have been approved by a Motion.

So, it seems like we are *beating the same horse all the time*. There is a reason for that because we still hope that we can find a way that all of us can be satisfied that the views of the majority have been heard and taken on board.

There was mention made yesterday that even the churches are getting involved in the process. The churches are like any other entity and those people who are members of the churches, by and large, will find themselves as citizens of the country. So, although the Church is an institution that is looked at in a different light in most instances, there is absolutely no reason why members should not be able to express their own views. Much concentration has been regarding the Bill of Rights but that is not their only concern. They are but one of the many groups and individuals who, at this point in time, are not satisfied. That regardless of the process that they have had chance to fully understand the proposed changes and

to air their views as to whether they agree with those changes or not.

If London wants a clear message and the Report of the Commissioners says one thing—the Government has offered the position that in many of the areas where changes are suggested, they are on board, but in some areas they are not.

The Commissioners have said that they are satisfied their proposals represent what the majority want. The Government is contending that in certain areas they do not agree with it. Someone tell me, what evidence do we have to show who is right? The fundamental reasoning behind the process calls for, at the end of the day, the majority view, which should be presented to London. How do we fill that void? How do we make it happen? I contend today that it is incumbent on all of us here to ensure that that happens however it does, but that it happens and it has not happened yet.

The petition is calling for a referendum to fill that void. If the Government does not agree that that should be the case, then they have to devise a method to satisfy the gap because our sole intention is for that to happen.

Speaking about referendum, there have been some arguments proffered about a 1999 Motion which in essence called for the Constitution to be changed to allow for a people-initiated referendum, as the situation that obtains presently does not allow for that. As I explained earlier, it has to be done by a resolution through this Assembly.

It has been said that if persons like myself were so interested in referendum, that during the time that I was on the Government Bench, why did I not cause that to happen. The fact of the matter is, when the Motion was approved in 1999 after the then Leader of Government Business had brought some amendments to it, it rested with the Government. I distinctly recall on more than one occasion after that Motion was approved in the Legislative Assembly enquiring as to what was being done.

For purposes of clarity, what had to be done was that a similar exercise of going to London seeking the change would have had to take place. But it did not at that time because we had the Elections. Some have said when the new Government took over why did I not cause it to happen? 'Madam Speaker, for whatever penalty I have to pay for it, I am not going to make up any stories about it. Two arguments came forth at some point in time: (1) a Motion was approved in the Legislative Assembly; (2) the Assembly was dissolved so the Resolution died.

If that were the case, then the onus would have been to bring it back and start the whole process over again. That is the way I understand that process. And if it were not the case, then it would mean that one would have to initiate dialogue with London to cause it to happen.

Madam Speaker, the fact is, for whatever may be said, that there was so much going on, on a con-

tinuing basis that I had no indication from anyone about it and I personally did not think of it to do it. In the arguments they can say whatever they wish to say after this about it. I am simply telling the truth about it. That is what happened.

When the talk came to me about the Motion falling away and all of this sort of thing, my mind was that in this process it could be addressed, as we have addressed it, because we have put forward the case publicly that we certainly believe that a new Constitution should include provisions to allow a people-initiated referendum. And that a Law should be made which would set out the terms and conditions and that would be in our own domestic legislation. The Constitution would call for it, the Law would be made so that people would know under what terms and conditions a referendum could be initiated if it is to be initiated by the public.

So, there is no question of whether we support it or not. If the argument is brought forth that I was negligent or that I thought otherwise then it makes no sense in me trying to go with a long slew of reasons why I did not personally put it forth. It is exactly as I have said it. Of course by now I am used to how arguments are going to go and today I am but a messenger. I would hope, while I have my own personal doubts about it, that we could be dealing with the message because that is what is important. If that gets lost in the way then it would be easy to understand what is more important, the message or the messenger.

The arguments have been put forth. We believe that the public at large in this country is not satisfied notwithstanding the process that was outlined and is ongoing. We believe that the public is not satisfied that they have had ample chance to digest and give their views. However, they want to air their views before sending anything to London. We are of the view, with whatever we have before us, that London wants it to be the views of the majority of the people.

We are totally satisfied at this point in time that we do not have that position at hand. We have not reached to that stage regardless of whether or not we should be (or the process has allowed for it or not) the fact is, we are not at that stage. People have asked for more time, which is the reason why the petition has asked for deferral of the debate.

The people have also asked for a referendum in order to ensure a clear message from the majority as to their views are on the issues where there is a difference between what the Constitutional Commissioners' Report says and what the Government has proffered as an opinion; and perhaps, what we may even have as opinions. So, it is impossible for us to participate in the debate of the Report because to do so would not be representing the wishes of the people as we see it.

Certainly, if a way cannot be found to get the people of this country to the point where they are satisfied that they have given their input, and that what is going forward is the view of the majority then we will

have no choice. Notwithstanding the fact that we have not participated in the debate but we will have no choice. But based on representations that we have received, based on the input that we have received; and based on the interaction where we have tried to meet with as many individuals as possible to get their feedback, we certainly will have no choice but to collate and pass that information on to the relevant authorities as our part of the contribution. While making the statement of not participating in the debate, we certainly would not, not participate to the point where we would not want to proffer what the views are that we have gleaned thus far. So we will not participate to that level. We are certainly going to do that if that has to happen.

What we are asking for is that the Government find a way to involve the people rather than proceeding with this debate and sending that along with the Report to London for them to draft the Constitution. That is the basic view.

It seems that the debate is going to follow on the Report of the Constitutional Commissioners. And if the amendment is approved the vote will be taken on whether or not to 'take note' that the position that has been offered by Government (the majority) will be debated and note will be taken. Our understanding is, that will go to London with whatever else. We believe that that exercise is certainly futile if we accept the principle that number 18 of the checklist calls for whereby it asked, if the changes that are suggested have the support of the majority, where is the evidence and such the like?

Obviously we have to subscribe to the belief that at this time the process is flawed if the people of the country are not satisfied that they have had their say in that process. It is fundamentally flawed as I have said before because the process that is on the way goes counter to the criteria that are required by London as they put forward the checklist. Perhaps I might note how many times I mentioned clause 18 but as I said to you earlier this morning, clause 18 underpins much of the arguments that I would have brought forth.

I ask the question, how can the Government; how can we; how can anyone else at this point in time say that the changes that are proposed by the Commissioners—if the Commissioners are satisfied that those are the views of the majority and there are suggested differences between what the Commissioners have said, it has to mean that the Government is not satisfied with those areas that the Commissioners have expressed as the views of the majority. It cannot mean anything else other than that. And if the Government is saying that we do not agree with that and this is the way that we would like to see it, then they are either not concerned about whether that is the expressed wish of the majority or they are saying that the message they send is that of the majority of the people. If they are only referring to what they think then that thought is also flawed because what London

wants is not what we think but what the majority of the people think. If they say that that is what the majority of the people think then begs the question, where is the evidence?

They speak to supporters who support whatever side. I am not concerned right now about supporters. That is for another forum. I am concerned with what we are hearing the people say. Now after we proffer these arguments and the line up counters all that we have said I want someone to seriously ask me what is the test that tells anyone of us that the message that we send to London is the majority of the people! They say what they have to say. . .we might say what we have to say but the fact of the matter is, the reason why we are not moving forward in proffering our opinions on those areas is simply because at this point in time we have to accept what people are saying: that they want more time before they form their opinions. After we have interacted with them more on those areas where there seem to be some disagreement, let them decide on which way they want to go. Unless there is another method that can be put forward the only answer to that, as we see it, is by a referendum.

The Government has spoken and asked for us to basically put aside differences and find a way forward and I say again, we have no problem with that. Contrary to what some may believe I am quite easy, and I am sure my colleagues are, to sit and find a way. All we are saying is let us make sure the people are satisfied, even if they wear you down. It is frustrating because I have experienced it. We have experienced it and I am sure Members of the Government have experienced it. Someone has an issue and they will not leave that issue. Sometimes they do not even want to listen as to what the other side of the coin when you might want to take a different perspective. Those experiences we will have, but unfortunately, those are some of the things that we have to agree on and put up with. For everybody has the right to air his or her opinion.

I do not know right now how else we could ensure that the process is one that is satisfactory to the public. As I said earlier on, an Election is nearly two and a half years away. These issues cannot be the subject of an Election for people to decide via what opinions are proffered by candidates to give a mandate as to what should be done. So, in the absence of that I see no other way but a referendum.

Madam Speaker, the question again, what is the purpose of the amendment? For us to take note of the Report when London has clearly called for assurances that what is being sent has the support of the majority? That there is evidence of that support, widespread consultation and debate in the Legislature in which the suggested changes have been approved by Motion? If London has changed its mind as to the process that it wishes for us to comply with then we need to know. If it has not changed its mind then there

is something wrong with the process that we are going forward with.

We are quite willing as representatives of the people to participate in a process, which includes the people to the point where by and large they are satisfied with what is going to be sent to London. We do not wish to associate ourselves with any process that goes counter to that. Regardless of what may be said as to why we do not want to participate, the fact of the matter is, as representatives of the people, in this instance, it is not our job to simply use what we believe should be the changes as the guiding light for London to draft the Constitution. Rather it is what the majority of the people wish as the changes that we should put forward as suggestions. This process that continues now as far as we can understand and think through will not allow for that to happen. Thus, we find great difficulty with it. We do hope that we will find a way and I am certain that there is a way. The question is, Where do we find the common ground to move forward?

Madam Speaker, our position is not one that simply wishes to go against the grain of what is happening now. It is obvious to us that for it to move forward; for it to be a situation where the public's fears are relayed that they are satisfied in the process. As of now we contend that they are not satisfied that they have had their say. I would hope that in dealing with this amendment that Government would explain because usually when an amendment is brought to Motion or a Motion is brought in moving either of the two, the Mover would explain the purpose so that if there is debate, it can ensue based on the intent which is explained by the Mover.

We have not had that opportunity yet and I think that we deserve to understand the intention of this amendment. As I understand it that will be the first vote that is taken as debate continues on conclusion of that amendment. If the Government chooses to continue on to deal with the bigger picture, as I said, we certainly cannot participate. I must also say that we cannot support the amendment as a matter of principle because of all of the points that I have explained thus far.

Finally, Madam Speaker, our sole intention is to ensure that the process concludes to the satisfaction of the people of this country. It is our considered view that if that is to happen then their wishes must be heard, as frustrating as it may be, because they must be satisfied that they have had their say. Thank you.

The Speaker: Thank you Member. We will now take the luncheon break and reconvene at 2.15 pm.

Proceedings suspended at 12.40 pm

Proceedings resume at 2.23 pm

The Speaker: Please be seated. Proceedings are resumed. Continuation of the Debate on the Amendment. The Honourable Deputy Leader.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

After today nobody in this Honourable House, or indeed any member of the listening public can say that you are not a fair Speaker. Because in all my years in this House I have never seen so much latitude given to a Member of the Opposition, or any Member of the House involved in tedious repetition—in contravention of Standing Orders 41(1). Madam Speaker, you are to be congratulated for the patience that you showed today.

The Motion before this Honourable House seeking to amend the substantive Motion by introducing the amendment to take note, rather than to approve the Report of the Constitutional Commissioners was carefully considered prior to submission. It would have been impossible to approve the Commissioners' Report and Draft Constitution for the simple reason that the Report and recommendations of the Constitutional Commissioners did not receive the full support of any Member of the Legislative Assembly.

We are unable to approve this Report because there are parts with which we do not agree. And we cannot disapprove it because we agree with the majority of the Report. That is quite a conundrum. Thus, the reason for the introduction of a 'take note' Motion.

The 'take note' Motion in its amended form reads, "BE IT RESOLVED that this Honourable Legislative Assembly debates and takes note of the Report of the Constitutional Modernisation Review Commissioners 2002."

Again, I want to mention and emphasise that point because the 'take note' Motion is referring specifically to the Report of the Constitutional Modernisation Review Commissioners and Draft Constitution.

On page 441 of Erskine May *Parliamentary Practice*, Twenty-second edition, in the section dealing with Motions 'to take note' it states and I read, "**The formula is regularly based on select committee reports. It is also appropriate for use by a Minister when he wishes to put down a neutral motion; a motion for papers would be inappropriate in this case, since papers can be laid only by the Government**".

The important part is that this formula enables the House to debate a matter without coming to any positive decision. As we said, this was the only appropriate method to use because some of the Constitutional Commissioners' Report was acceptable by the Government and other sections were not. So, it could not have received an affirmative position or be taken on the affirmative Motion.

From the very first meeting held by the United Democratic Party (UDP) on the Commissioners' Report and Draft Constitution, the UDP was quite clear on the issues which we agreed and disagreed and our proposal for changes. I will just pause here to say that it is somewhat disgraceful that on a matter as important as this, that no Member of the Opposition is present while this matter is being discussed from the Government Bench.

We sat here out of respect for this Honourable House today and listened *ad nauseam* as the First

Elected Member from George Town spoke on and on, on the same issue—tedious repetition—and we did not object to it because we felt that he should have been given the latitude in this House. And Madam Speaker, you were kind enough to allow him to continue with his tedious repetition. It is disgraceful to see that those Members (who are being paid the same as the Members on this side of the House) have ignored the House and walked out. There is not one of them here to listen to this debate and that is what they call good representation of the people. It is a disgrace. This is what they should be telling the public: the way they represent the people in this House and the disregard they have for the Honourable Legislative Assembly.

Our proposal took into account and reflected the views submitted to us by various individuals and groups including members of various churches. We consistently articulated our position at all of our meetings in each district in Grand Cayman and Cayman Brac, which were reported on in the Media.

It can therefore be reasonably concluded that the Cayman population has known from the initial stages of the consultation process of the proposals of the UDP. Again, as we moved from district to district we took on board the views of the public, which on balance, are reflected in the UDP's position paper that will be spoken about later on in the debate.

The process of seeking the views of the public cannot reasonably be regarded as an exact science. I would like to repeat that: the process of seeking the views of the public cannot reasonably be regarded as an exact science. The Commissioners' Report reflected the views of what they regarded as stated by them as a majority of a representative sample of the population.

The proposals in the UDP's position paper also reflect what we regard as the views of a majority of a representative sample of the people whom we have reached.

Therefore, it can be concluded that the process followed by the Commissioners and the United Democratic Party complies with section 219 of the Foreign and Commonwealth Constitutional Modernisation Checklist dated October 1999 in respect of the question, Do the changes suggested by the Overseas Territories Government have the support of a majority of the population?

I would reiterate that the process undertaken by both the Commissioners and the UDP reflect a representative sample of the views of the majority of the population. At this point I wish to table a copy of the original Constitutional Modernisation Checklist received from the Foreign and Commonwealth Office dated October 1999.

The copy that was tabled by the First Elected Member for George Town yesterday was just a reproduction or edited copy that was provided by the Government Information Services (GIS) and I am not here to say that it contained any wrong information. I am tabling this because this is a copy of the original paper that was sent from London.

The Speaker: So ordered.

Hon. Linford A. Pierson: The section 18 that was referred to in the paper that was read from by the First Elected Member for George Town is the equivalent of section 19 of this paper. Except the paper that was tabled yesterday left off some very important information.

Madam Speaker, on page 1 of the paper, which was perhaps inadvertently omitted from that other paper, it states in paragraph 1.3 (and I would like to read this and have it recorded in the *Hansard*), **"In order to help OT Governments to review their Constitutions and to see if any changes are needed a checklist has been drawn up which gives an indication of the standards which OT should seek to achieve, the obligations which they should strive to meet and the expectations of HMG in key areas of constitutional modernisation. OT Governments are asked to consider the checklist when making proposals for constitutional change and either to incorporate suitable measures in their proposals to meet the requirements of the list or explain why a particular requirement should not apply to their territory."**

It is a pity that the First Elected Member for George Town did not read that information in because it states quite clearly that this checklist is being given to Overseas Territories as an indication of the standards which they should seek to achieve, and that Governments are asked to consider the checklist when making proposals for constitutional changes. That shows the flexibility in the checklist that was sent to the Overseas Territories.

We have heard much said by the Opposition about the process, which they employed in order to obtain the views of a majority of the population. But it is quite clear from the results—I am not putting down the results because I know that a number of very good citizens signed the petition—some were properly informed about it, others were not. We are not quite sure how many of the 7,000 are perhaps visitors off the cruise ships or other people coming here on very short visits. But I am sure that the authentication process will distinguish those that should be on it and those that should not. I have every faith that that would be done properly. Nonetheless, it is quite clear that the numbers that signed the petition are not a majority of our population. I would like to focus on that particular point notwithstanding that it is a significant number. We are talking about a majority and there is no way—unless the Opposition has done a different arithmetic from mine—that 7,000 people out of 40,000 can form a majority. I would go further to say that it is presumptuous for the First Elected Member for George Town, or any other Member of the Opposition, to get up in this Honourable House and suggest otherwise.

It could just as reasonably be concluded that the 33,000 (that is, 40,000 less 7,000 remaining 33,000 plus) members of the population who did not sign the petition do not want a referendum, if that logic was extended. Further, it could also be reasonably concluded that the 33,000, which represent the vast majority agree with the position consistently made public by the United Democratic Party. Accordingly, the legislative group of the United Democratic Party have all signed a position, which sets out the views and recommendations of the

United Democratic Party. And this was done after very close and careful consultation with the public and incorporating the wishes of the public where appropriate. This can particularly be seen in the section dealing with Human Rights.

Madam Speaker, I suggest and submit that what has been done to date by the United Democratic Party complies fully with section 219 of the checklist which questions whether the local consultation process has been followed by a debate in the Legislature in which the suggested changes have been approved by a Motion. This procedure will be followed. I will not say any more on this particular point at this point in time.

I believe it would be good to have the Members of the Opposition here so that they could hear the other side of this and not walk out of the Assembly when a Member of Government is speaking with a different view. This again, Madam Speaker, I would like to repeat, is not only an insult to the person speaking, but it is also a disgrace in this Honourable House. Again, I wish to point out in my short contribution on this that the process followed by the United Democratic Party has fully complied with all aspects of the Foreign and Commonwealth Office Checklist.

I thank you, Madam Speaker.

The Speaker: Thank you, Honourable Deputy Leader. Does any other Member wish to speak on the amendment? The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, it is said that *there is no point in preaching to the converted*. And I believe that this is the reason why parliaments are usually made up of opposing views in order that each side will be given the opportunity to debate issues and thereby arrive at some consensus. This is obviously an opportunity that has been denied this Parliament by the action of the Opposition here today.

[Member in background: "Hear, hear!"]

Dr. the Hon. Frank S. McField: For if Parliament was basically a House where there would be no disagreement then we would be able to say that we have a dictatorship, and that we have a one-party state. Thank God that in this country debate is alive and well. But healthy debate, although it should exist on the outside of Parliament is more useful in Parliament because it is the consensus that is arrived at in the Parliament that will later on help to form the basis for the actions and the rights and privileges of citizens.

I have had a very difficult time understanding exactly what it is that the Leader of the Opposition, the First Elected Member from George Town has been saying. He says that he would like the people of these Islands to have a say in the constitutional process at this particular stage but he should also be the voice of the people. What he says should somehow represent what the people are saying. The reason why we have Parliament as a separate entity from the outside is so that we can have democracy that could not exist without the rule

of law; without precedence and procedures conducted in an orderly fashion.

So, I would assume that the Members of this Legislative Assembly must be capable of speaking for the people. Therefore, the fact that the Leader of the Opposition is not here means that he has already spoken for the people. And as a result of having said what he had to say for the people he has left because he is not to be persuaded by argument. His opinion is the only opinion that counts in this Parliament and once he has broadcast his opinion he gets up and walks out.

Madam Speaker, just imagine that we were playing a football game. . .he scored one goal and he gets up and walks out yet the time has not expired. He would be representing his team very poorly if that were the way he would conduct himself on a football field. But then again anyone who bats and gets someone to run for him, in a gentleman's game such as cricket, must lack a particular understanding of the kinds of institutions that we are dealing with here.

The 'take note' Motion being brought as an amendment to the present Motion is asking for a decisive vote on the part of this Honourable House. It makes even more sense when we listen to the position of the Leader of the Opposition who tells us of the many people who are now wanting to become involved in the constitutional consultative process. The reason why it is important that we have a Motion that takes note and therefore gives us the possibility to debate the issue contained in the Constitutional Review process, rather than to have to agree or disagree with the Constitutional Commissioners is, we are lending a further hand to the process of consultation which the Members of the Opposition have agreed should not be concluded at this particular time. But when they get up and walk out of this Honourable House what are they telling us? That the only place they will continue this process is on the streets with wheel barrows, making jokes and having fun and giving the wrong impressions about the seriousness of politics in this country.

Madam Speaker, there are certain people who because of where they come from believe that however they act, whether or not it is in a bar room or outside, it is acceptable. But there are certain people that because of where they come from even when they go around acting like gentlemen they are not perceived as being such. That type of perception is misled. It is time that we called the spade the spade. It is time that we realised what kinds of tactics are being used and the reason why they are being used at this particular time.

Why come in after it had been told to the general public that the Opposition would boycott this Honourable House in its discussion on this particular issue, hug up the TV time and take up all of our time. Then after having made a few statements they leave to go out to do exactly what they had already planned to do, meaning, that this side (Government side) would have no opportunity to debate with them through this dialogue to arrive at a common ground and a common understanding.

I have asked the question where on the Checklist does it say that the Government should use referendum to ascertain the views of the majority of the people. Where on the Checklist can we find this information?

An Hon. Member: It is not there.

Dr. the Hon. Frank S. McField: Madam Speaker, the Leader of the Opposition and First Elected Member from George Town used his time always referring to number 18 of the GIS Checklist. I would like to also state that it says, "the GIS Checklist" or "GIS" at the end of Constitutional Modernisation checklist. It did not say "Her Majesty's Government" as it is in the case here [*separate document shown*] where it says "Overseas Territories Department Foreign and Commonwealth Office October 1999". This is the original unabridged version that the Deputy Leader of Government Business referred to.

Whenever we have information we should always know the English language is sometimes so ambiguous that unless we understand the source of the information we shall become confused by it. I think it is the case where it says here in the GIS Checklist 18, "Do the changes suggested by the Overseas Territories Government have the support of the majority of the population?" What does that mean? We understand that the Constitutional Modernisation process is not a process that was driven by the Cayman Islands Government in that sense but it was driven by the Overseas Foreign and Commonwealth Office through the Governor's office here.

So, Commissioners were set up by the Governor so they would be able to gather the opinions of the people with regards to constitutional change. If the United Kingdom wanted to get the opinions from the politicians they would not have had any logical reasons for establishing three independent constitutional commissioners to consult independently, and uninterrupted by Government members with the people.

Now, the process might not have worked perfectly because no formula, especially when they are devised on the other side of the ocean, works perfectly. But the intention can obviously be seen here. There was no urgency on the part of the 1999 Government (led by the Honourable Truman Bodden at that time and opposed by the Honourable First Elected Member from George Town) to make constitutional modernisation a priority. And therefore, it was not an initiative that the Cayman Islands Government got involved with.

Had the Cayman Islands Government decided, like some other governments, that they were going to take the initiative in modernising their Constitution, then this checklist would have been a list that would have applied to them. The British Government wanted to make it obvious what their standards and criteria were so that no one would misinterpret exactly what they would be accepting in terms of constitutional changes or advancement.

So, what I am proposing is, Do the changes suggested by the Overseas Territories Government have the support of the majority of the population? And I would say do the changes suggested by the Cayman Islands Government have the support of the majority of the population?

What we are debating here, from the point of view of the Commissioners' Report, is not the Government's report, it is the Constitutional Commissioners'

Report and the Constitutional Commissioners have reported that what they have suggested have the support of the majority of the people. The Opposition has questioned this to a certain extent that maybe the Constitutional Commissioners did not have the type of support from the public that they needed. Therefore, they did not get the input that was necessary.

Maybe constitutional change was not the most important thing to the citizens of this country at that particular time. I can understand that. Politicians were not involved and people were not emotive and they did not get involved. But the point is, given the circumstances which existed over the nine-month period that the Constitutional Commissioners carried out the mission, which was given to them by the last Governor, they were able to say certain things.

Now, we have points that are considered in the Constitution where it appears as if the Government (the United Democratic Party (UDP)) and the Opposition (People's Progressive Movement (PPM)), are in agreement regarding the general direction of the recommendations by the Commissioners. And all that really needs to be resolved at this particular time are some six issues that the PPM, in relationship to other free-spirited citizens exercising their democratic right, seem to have flagged up as issues that need to be discussed again.

I am hearing that people are saying, "*We are not satisfied that we agree on these six issues*". It is interesting that one of those six issues happens to be: Should the Speaker come from inside the elected membership or outside? This is put down as an issue of national importance. How do we get to the point to decide what is an issue of national importance? Is it because the PPM people say so?

What is an issue of national importance? And if it is an issue of national importance can it be decided on by a *yes* and *no* answer? My contention is that if the Speaker is to come from outside then my next question would be, if I vote and say, "*Speaker comes from outside and I am satisfied now, I had a referendum*". Now, whom do I give that answer to? The Government, the Constitutional Commissioners? The United Kingdom? Where does it go?

I would assume that since it is a referendum what people would be trying to do is to [take] it to the Government. The Government could then say, "*Ok, if the Speaker is to come from outside who will elect the Speaker?*" The people from inside or the people from outside? And if the people from the outside will elect the Speaker, then the Speaker will have to run in the elections just like everyone else. But, if the people from the inside will elect the Speaker, then there is a possibility (as I have suggested in another forum), that the person who is chosen for Speaker by the people from the inside, will also be someone the majority of the people from the inside are familiar with in some way. Therefore, there is a possibility that that person might later on be criticised for being biased once there are persons who do not agree with the ruling of the Speaker.

Now, the Speakership is something that a lot of people seem to have not understood too well. They understand that there is someone who comes to this Legislative Assembly called 'Speaker' who rules on decisions,

but as we go along we learn that the Speakership is a very ancient position and it has a specific meaning within the parliaments within the Westminster system. And that the Speaker takes with him or her complexities of procedure and precedence and statutes that are developed so that the Speaker is, in a sense, a lawgiver or lawmaker.

So, the complexity of the Speakership is something that we need first of all to be educated about before we can decide to vote yes or no. Therefore, if someone is arguing by the question that the answer should be that the Speaker should come from outside, that person who is arguing that way can no longer come in this Legislative Assembly and say that they do not have a position—the position that they have is just that the people should have a say.

We have a responsibility also as those persons who help to form consensus. We not only take the views of the public, we influence the views of the public as well and that is part of what we are supposed to do to help to create consensus. That is why we have all this time and why we are paid so well. We have time to think about these issues when the public is out working and doing and thinking about other issues—*The division of labour* it is called.

It is not presumptuous on the part of a parliamentarian to think that they might be a little bit more advanced in a particular debate than someone in the general public, simply because that parliamentarian is paid to research; to debate and to have knowledge of the wider connotations and denotations and ramifications of these issues.

So, we can no longer believe that the issue is about a referendum here. It is a more complicated issue because if we are going to have referendum we must also talk about the educational process that is necessary in order to make that referendum meaningful. And this will take time and involvement and it will take a little bit more than people standing around and saying, *'Bobo, why I want to stay around and hear what you have to say is that I do not really have an opinion myself, although you pay me to have an opinion I do not really have an opinion. I want to hear what you want'*.

Madam Speaker, I do not think that certain people have a problem with leading because they always find themselves in front of the pack. They are always there: the upfront person—the spokesperson.

How am I supposed to forget the fact that if all the six issues that were put down and signed—I hear people say to me that I voted for the referendum Motion in 1999. Yes, I have the same support for the concept of a people's referendum but that is completely different because I am debating that or supporting that when it is a question of national importance, not when it is a trivial issue. Not when it is an issue that could be resolved through a different process, perhaps through discussion and debate and a little bit of education.

This situation that people are asking me to agree to, to spend the country's money on when we do not have enough money to hire even a house manager for the substance abuse services outpatient residential facilities; when we do not have enough

money to make sure that Northward Prison has the kind of security that it should have; when we do not have enough money to pay the seamen that have contributed to this country; when we do not have enough money to help the poor old ladies that are out there; when we do not have enough money to be able to do with the youth the things that we want to do so that they can be a part of the future, we must spend money on a referendum. They are asking us to make a very important decision. So we have to be convinced that this is the only way that the decision could be made. And I am saying that the further we go into this process the more complicated it will be.

Take for instance, the question of multi-constituencies—the principle of 'one man, one vote'. . . I agree. The United Democratic Party has said it agrees. A lot of people say, *'Oh well what is happening is, George Town is taking a piece of Bodden Town and I know the people in Savannah do not want that, so how are we going to cut it up?'* How are we really going to separate the people in George Town? How are we going to stop from getting into the poor areas—nobody ever say black and white areas because we do not use that kind of word in Cayman—black areas and white areas, poor areas and rich areas, expatriate areas and Caymanian areas. It does not say that it cannot work but every system that you build brings its own weaknesses to the forefront. There is no perfection (or very little) in human society. Every institution has its weakness.

So, there will be a weakness in the new system just like there are weaknesses in the old system. There will be strength but there are weaknesses and we must be prepared to deal with the weaknesses and this is the reason why the United Democratic Party suggested that we take our time and advance ourselves towards the 'one man, one vote'. That we can get it right; that we do not get all the weaknesses that we see in Jamaica and other places, where you have these little poor constituencies; where politicians are gods. It is not as simple as it seems, and the Opposition would have been well-placed to be here to begin to listen to what we are saying. Not to agree but to help us along perhaps in our journey of trying to find out what is best.

We only started with a position where the United Democratic Party says we disagree with the Commissioners in these areas. And it is the areas where the United Democratic Party had disagreements with the Commissioners that they have chosen to have a referendum about. But the point is: if this is the position of the Constitutional Commissioners, it is the same position that they would like to have a referendum about. And I believe that they would like to have a referendum because a lot of them believe already that people would vote to say let the Speaker come from outside the House. But if the Constitutional Commissioners are saying that the Speaker should come from outside the House and the Opposition believes the Speaker should come from outside the House, or the people believe that the Speaker should come from outside the House, then what is the point in spending all this money to have a referendum?

I still do not get the logic to prove who is right. There is no perfect, exact science when it comes to dealing with people's opinions because people's opinions are

not always something that is static. They change and they can do so as a result of people having new information to process. That is one of the reasons why we were hoping that the Opposition could be here—so that they would have some additional explanation as to why we feel the way we feel with regards to bringing an amendment to this Motion. An amendment to the Motion provides us with the possibility to discuss the issues that we feel there is still disagreement on.

First of all, I would like to know from the Opposition whether or not they believe the Speaker should come from the inside, as we believe. Or, whether or not the Opposition believes that the Speaker should come from outside. And when did the Opposition come to that position?

An Hon. Member: We have never seen their position.

Dr. the Hon. Frank S. McField: We have never seen a position from the Opposition. Why is it that they continue to believe somehow that they can lead by reaction; that they can lead from behind? But that is the style of the First Elected Member from George Town. Leading from behind! And that is one reason why the Referendum Motion that he brought in 1999 with the Honourable Roy Bodden, Minister responsible for Education, sat, not being acted upon, because he had to lead from behind. But if he had been leading the way he should have, as Leader of Government Business he would have had the time and opportunity to bring that Motion into law and therefore, to have created the bedrock for what is now being asked to happen, to happen.

It is easy for people when they are not in the position to make the decisions to criticise other people for not making the decisions, but when they were in the position to make the decisions they did not make those decisions. I would still like to be told what is the position of the PPM with regards to these six issues where there seems to be a disagreement between the Constitutional Commissioners and the UDP—a disagreement that is quite alright. There is nothing wrong with disagreement and I am quite sure that the United Kingdom was not expecting that all the people in the Cayman Islands (including all the politicians) would agree on the same things. There are differences in points of views because there their perspectives are different. This is only human.

But when they sit down in the United Kingdom to evaluate the differences in opinions, they will be able to say, 'Well, this is what the Commissioners said; these are how many people the Commissioners said they interviewed; this is what the Opposition has said; this is how many Members of the Opposition; this is one of the Members of the Opposition who got a certain number of votes at the polls in 2000 . . . very popular person although he is no longer the Leader of Government Business we still give him a certain amount of credibility. He is the Leader of the Opposition and he is a credible person on that particular point. Let's look at the Government's position—the motives it might have. And let us

look at the motives the Opposition might have and see how we can frame a Constitution that they all can live with that can be a good instrument of Government for the Cayman Islands people'. It is not something that is going to be perfect again because there are going to always be issues. Like some politician said, it is not just a Constitution; it is the people that you have working in the system as well.

So even if we say that the Speaker should come from outside the House, we put that in our Constitution and tie ourselves to that, and we found that there was a situation where we could not find a Speaker outside and we had someone inside that could and would serve, our hands would be tied because we cannot find a Speaker. Parliament cannot operate, as you know Madam Speaker, without a Speaker. The Speakership is a very important position.

All I am saying is that a 'take note' debate would help us to agree because we would not be disagreeing; because there is no reason to disagree; because there is no vote to win. All you can hope is to make your argument as logical, precise and as clear as possible. But there is no winning in a 'take note' debate.

If we had come here and not amended this Motion and had voted to say that we should not accept these six points as represented by the Constitutional Commissioners the Opposition would jump and say, '*You see that, they are against the people, they are voting against what the people want because they know that they have the numbers in here*'. We are not going to use our numbers to vote in that sense! We are going to use the strength of our argument, our ability to be persuasive. They get up and they walk out because they realise that their only useful tactic is to confront! confront! confront! It is just like when I used to visit the bar rooms and drink — that is exactly how I used to be: confrontational! confrontational! confrontational! But I do not visit the bar rooms anymore! And my tactics have changed! Thank God for that. I remember! When you drink that alcohol it stays in your system for a long time and a long time you will be making alcoholic decisions and you have not even touched the bottle. We have to be careful.

All I am saying is that my tactic today is to try to keep the debate open. I think it is absolutely necessary that people out there realise that they do have the right and that this Government respects their right to have a say. But sometimes we do get a little confused because we see other people abusing the rights of those people who do not necessarily know as much as they know about some of these issues. We see them feeding the [people with] misinformation. For instance, when we get here and we see that they have not tabled the Constitutional Modernisation Checklist from the Overseas Territories Department Foreign and Commonwealth office October 1999, but they chose to table an abridged version, done by the GIS, which means in every case they are taking us away from the original things and taking us away to something that is abridged and something that is a diversion.

We said that we had some problems and we would allow them by adjourning the House to allow them to join the debate rather than to start it without them. And they come and slap us in our face by walking out of this

Honourable House after we had delayed the people's time just to accommodate them. That is not the tactics of a sober person! There are people who come and tell me that, 'Well . . . you do not go along with them you are not going to get elected again.' There are people who say I do not remember where I come from and I say, 'Ask my mother if you do not think I remember where I have come from. You ask Mama'.

The most important thing for me is that I feel that I am part of a government that would like to pay attention to the people. I realise that the Constitution is important, but I would like to be at the Glass House at this particular point dealing with how I am going to try to reform and restructure the whole care that we have for juveniles in this country to a point where we are getting results from these kids so that they can become real investors in this country.

I would like to be getting out there to see what we are going to do about housing but I am tied up over the last months now in a battle about a Constitution. Madam Speaker, I could have still used this present Constitution. Like I said, I did not initiate the process, I am part of the process and I am trying to do my part. My part was that I went out with a party that I am a member of into the district of George Town. We had a meeting with the Minister for Communication and Works and we had it televised so that we could explain our position. He spoke with members of the clergy and some of their arguments were integrated. But, Madam Speaker, I do not want to take up the whole time going on and on about all these things that can be talked about when we come to the debate on the substantive Motion.

I am really here to say that I am very disappointed in the way the Opposition always plan their tactics to obstruct the possibility for debate in this House. Madam Speaker, the Opposition does not have lunch with us since the 8 November. Even when I called Mr. Truman Bodden whatever it was when I got suspended, we always still had lunch back in there. There were rough days in 1999/2000. My first term here as a freshman, I created enough problems for the Speaker and I never thought the Speaker was ever right. I always thought I was right. But one learns. One can be right and still wrong at the same time.

The confrontational attitude and the arrogance apparent in the Members of the Opposition when they refuse to take tea with us and now even refuse to debate with us: while they may not be paid to take tea with us, they are certainly paid to debate with us. Now, judge the book not by the cover, but by the content of the character: If we cannot talk to them in the Common room—because they are not there to have tea with us; we cannot talk to them here on this Constitutional issue; they will not talk to us period, then where are we going to talk to them about trying to find some common ground to this situation?

[Members' inaudible interjection/suggestion]

Dr. the Hon. Frank S. McField: *(response)* Well, it is not going to be there because I do not go there anymore. Madam Speaker, I have to conclude by saying that because I disagree with the Opposition does not

mean that I feel that I am against the people. The Opposition has made the case that they from the 8 November last year did not agree with this Government being the government and that they intended to use whatever means necessary to make sure that this Government does not complete its business.

So far they are trying to involve the entire population, if possible, in order that they succeed in doing so. But the people will be the worse off if they forget that we do not live by words or politics alone but we also need a little bit of bread. We therefore, need to make sure that our economy is going and that people have jobs. And that those people who are disabled and cannot take care of themselves are given some kind of support.

This is the main issue in this country whether or not the Speaker comes from inside or outside the Legislative Assembly. When unemployment is rising; when the Cayman Islands' ability to produce and export does not exist; [when] we are totally dependent upon foreign economies that are having a rough time because of their own issues: this is the most important issue. When the European tax initiatives are being driven and our financial institutions are again being threatened and we must stand together to make sure that we protect it: this is the most important issue.

A Constitution of a country is important. It should embody the soul of the people. The spirit of the people should be inflamed in the Constitution. But a Constitution has to be something that we understand and will at the end of the day be only as good as those persons who are willing to be ruled by it. For if we come to this Honourable House and will not accept the spirit of debate, then, Madam Speaker, we are talking to the chairs.

Here I am either preaching to the converted or talking to the chairs because the Opposition has held this Government in so much contempt since the 8 November last year that they will not even sit down to talk to this Government to hear what we have to say and bring their arguments against what I have to say.

That is one of the reasons why I believe that their tactics are not sober tactics. You know what happens when tactics are not sober . . . they end up in the wall. There is no way that after going around this point number 18 . . . "Do the changes suggested by the OT Government have the support of the majority of the population? What is the evidence for such support? Has there been extensive local consultation with or without the assistance of a Constitutional Commissioner or Commission?"

The extensive local consultation was with the Constitutional Commission but you see the way that it is written—"**Has there been extensive local consultation with or without the assistance of a Constitutional Commissioner or Commission?**" We had three Commissioners so the extensive consultation was there.

Now it says, ". . . followed by a debate in the legislature in which the suggested changes have been approved by a Motion". They are arguing because we are not going to vote on the suggested changes that that should make null and void their participation. We are discussing them. There has been

extensive consultation with Commissioners. The people are supporting the changes. Because of the Government's difference in opinion with that of the Constitutional Commissioners regarding the six items and because of the role of the Opposition in attempting to boycott Parliament it is the decision of Parliament to amend the Motion to allow the debate to take place without the alienation of any side of this Honourable Parliament.

The United Kingdom can make a decision as to whether or not the lack of the vote in this Honourable Parliament on these specific items should be deemed as sufficient reasons to reject the Constitutional Commissioners Report. For the Report for Constitutional Modernisation is not coming from the United Democratic Party Government, it is coming from Constitutional Commissioners. It is not coming from the street, it is coming from an orderly process that was set up by the Governor and accepted by the last Leader of Government Business, the First Elected Member from George Town as a way in which we should go about ascertaining the public's opinion.

Madam Speaker, with that I would say that I support the amendment and reiterate that it is the most civilised and sensible way of trying to mend the fences and to gain a common ground with regards to the positions of the different persons in the Legislative Assembly.

The Speaker: Thank you, Honourable Minister. Does any other Member wish to speak? Second Elected Member from the district of West Bay.

Mr. Rolston M. Anglin: Madam Speaker, I rise to offer a few brief comments on the amendment. Also in the spirit of debate, to clarify certain positions that have been put forward. I have heard so much recently about education of the public that I think it is important to clearly state that the main reason for electing a representative government is so that those persons can come to the place designated for you (the people) to be represented, that is, the Legislative Assembly. That is where the people of this country send us to do their work. But so many are tied up in bar room politics and getting up in this House and casting aspersions on this side that they do not have time for meaningful representation.

Madam Speaker, debate is about points and counterpoints. I have said that before and I will show through these brief comments that a story always has two sides. There are some that say there are three sides, the two opinions being proffered into truth. But I will let the record of this House (the *Hansard*) and the listening public judge for themselves.

The First Elected Member from George Town as has been alluded to by the Honourable Minister for Communication and Works, has a way of standing up and talking for two hours about a point that could have been said in five minutes. In doing that you encapsulate and throw aspersions that deviate logical minds from the issue at hand. *Circular debate* is what it is called.

The First Elected Member from George Town talked about what would come after he spoke; talked about knowing the game. *I know*. He seems to know so much, yet he has nothing in terms and opinion to bring to the people. He does, however, have one unique talent: he knows how to cause strife and how to come here and cast aspersions. If that is what the people of George Town want in a representative, keep him! But if they want leadership and true representation they need to rethink the position.

The Member got up and talked about 'eating away at credibility'. Does the Member forget what he did to Mr. Truman Bodden in this House all those years? Does he forget that that is all he did? I remember listening to it on the radio. At every opportunity he battered and beat Mr. Truman Bodden's credibility. He did it over and over until the people of George Town made him king—set him as the man! Unfortunately, there is an old saying that goes, *Leaders know the way, leaders show the way, leaders go the way*. Madam Speaker, for one whole year the First Elected Member from George Town could do neither of the three listed above and now in this important debate he gets up and plays games again with the people saying that he needs to hear their opinions.

Let us face reality: There are people who, even if you could pay them, are not going to care about certain issues. Two days ago before this debate started, I visited three households in my constituency and talked to every single person: (1) One lady wanted to talk about her wages so she wanted to know more about minimum wage. (2) There was a gentleman who wanted to talk about his arthritic knees—how they are causing him not to walk and what the Government can do for him. (3) There was another person who wanted to talk about how he could deal with certain planning provisions. They did not want to talk about the Constitution. They looked me squarely in the eye and said, "*That is why we elected you . . . that is why when you got up and told us your qualifications and told us why you should be one of the four sent to represent us, that is what you are paid to do*". They said, "*Rolston what is all this noise about a referendum anyway? You tell us*".

Madam Speaker, Leaders know the way, they show the way, and they go the way.

The First Elected Member from George Town led his Opposition marching out of the House away from their jobs. I take it they are on strike. Maybe a provision should be in the new Constitution to deal more effectively with these sorts of Members who want to play politics with everything—do not want to stay here and debate the issues. I sat in the Common room on my break and listened painfully to the First Elected Member from George Town go around the point—just like a child. You know when you are playing a game of marbles and you get mad and you grab your balls up and go home? See where that is going to get them.

Madam Speaker, I know I am pretty young but the strength and character of a man is in his actions and not his words. So, I do not need to stand here and question his credibility. His own actions do all the speaking that no one in this world could ever do.

Madam Speaker, I refer to a very interesting term in the Oxford Concise Dictionary of Politics, called "rhetoric" and with your permission I quote.

The Speaker: Please proceed.

Mr. Rolston M. Anglin: "Rhetoric accordingly came to be seen as the unnecessary or misleading embellishment and corruption of language". **It gives the traditional definition of rhetoric and also the more contemporary definition.** This is yet another tactic that the First Elected Member from George Town uses quite well. Rhetoric. Let me remind Members of this Chamber and any one who is listening that it *"came to be seen as the unnecessary or misleading embellishment and corruption of language"*.

Those of the public may be wondering how on the one hand I have said he was talking in circles and was not making any points and then I said I listened to him in every point that I moved in this Chamber, it is for that same reason. I have learned in these 20 months that I have been here that the First Elected Member from George Town is filled with 'rhetoric and so I make it my duty when he speaks, if I am here, to listen to every single word. Because 'rhetoric' is *"the unnecessary or misleading embellishment and corruption of language"*.

Let me point out how the First Elected Member from George Town is filled with rhetoric: He went to great pains to bring in the Civil Servant issue regarding them not being able to sign a petition. He said that someone took the decision to not allow them to participate. On the face of it that seems like a perfectly reasonable statement, but the word 'decision' is a very critical word in that sentence. 'Decision' means that someone wilfully acted in a way to deprive civil servants.

Madam Speaker, I beg to correct the Member and to correct the minds of the listening public: No one took that decision. The Honourable First Official Member, the Chief Secretary did not take a decision. It is clearly entrenched in the General Orders that civil servants cannot take part in a petition that is petitioning their employer, that is, the Governor in Executive Council. All the Chief Secretary did was to interpret the General Orders because someone who was uninformed got up and asked the question. He did not take a decision.

But you see, that is the crafty rhetoric that the First Elected Member from George Town is accustomed to getting away within this House. But whenever he decides to come back he had better remember that as long as I am here and there is strength and breath in my body I will listen to every word that he says. And once he is finished I will then get up and interpret it for the common man and the citizen on the street. For it is filled with rhetoric, insinuation and malice.

This is a House of politics, yes. We are dealing now with the Constitution. We should be dealing with issues, positions, point and counterpoint. We should be providing the listening public with positions to help educate them. So, how are they going to have a referendum and vote in the first place if their representatives do not

even have an opinion to give them—to educate them on the issue? You want a referendum? Really . . . It seems that once again rhetoric is used.

Madam Speaker, if the First Elected Member from George Town says in his debate that all he is talking about is a referendum, Why did he not amend the Motion that he submitted to the House on your suggestion so that the issue could have been put out clearly to the public? Maybe it is because he really does not want a referendum. Maybe he forgot as he did the year he was Leader of Government Business—he forgot about the important Motion he had brought in 1999. I am simply saying what the Member said he forgot.

There are people who may have questions as to why I was the Mover of this Motion of the 8 November 2001. I am too young and I have too much at stake and I have too many friends with too much at stake to wait to act. I was not going to wait around until 2004 to talk about him. I dealt with the issue when I saw it. And just like how he forgot that, many other things were being forgotten.

But then again, there are certain things that we are born with, or without. *A leader knows the way, he shows the way, and he goes the way.* Not forgetting his roots, not forgetting the people who put him there, not forgetting that it is representative government. Representative government is a fascinating term.

The First Elected Member from George Town says the people may not have had an opportunity. The Leader of Government Business, the First Elected Member from West Bay made it his point from during the campaign to bring lawyers to West Bay in the school hall to have a constitutional meeting on the White Paper, to talk to the citizens in West Bay about these important things.

We, the West Bay Members of the United Democratic Party, ran on a platform that said that we were going to hold quarterly public meetings with our people. Unless someone can correct me, I do not think the First and Second Elected Members from George Town had one public meeting during their first year in office. Not one! When important issues would come up like Cayman Airways issue all they could do was to get mad with us because we would go and talk to the public. And now they and their puppets are going to get up and say that we are an arrogant Government? And talk about us being the dictatorial Government, yet we continue to talk to the people? What funny dictators we are! We give them a radio station to 'beat us to death' and talk about us. We provide every medium for them to criticise us and we are dictators?

I tell you what: if I were judging us on dictatorship 101 I would not even give us a grade. Fail. We would get a 'U' as it was in old O level language. Our paper is ungradeable. I have a terrible problem with dictating. Some people do know how to dictate. Some people do know how to get up and irresponsibly rile up the masses in this country, to do things they ordinarily would not do. But I will get to this in the substantive Motion.

Madam Speaker, I would like to end off by countering another point that was brought up by the First Elected Member from George Town. He read—as has already been described adequately by the two speakers

before—from a document that is not the official document. So, first of all that automatically makes his argument extremely flawed if not incorrect.

But then to open his debate, he walked the public through what the Governor said the rules were. It is one thing to have a checklist—if you talk about a checklist and to table a checklist, but a checklist is paper; it is paper from 1999 that has been alluded to. The former Governor, Peter Smith, told us the way. He got up and said the Governor told us the new way. Then he asked the question if someone has changed he did not hear about it. Madam Speaker, is that sober talk and sober judgement? The Governor told us the way. Let me reiterate the way the former Governor told us.

The Governor said that we were going to have a debate in the Legislative Assembly; the report along with the verbatim debates would be sent to the United Kingdom Government; the United Kingdom Government would then draft the Constitution (because they are the only ones who can draft the Constitution for us); they would then send us the Draft Constitution and if it met with support with minor differences it would be settled by telephone. If it were not met with support then a contingent would be dispatched from Her Majesty's Government to the Cayman Islands to settle the differences. That is a clear deviation from the Checklist.

That is Her Majesty's representative telling us what is going to happen. That is the authority of the Governor. He can tell us how it is going to happen. Madam Speaker, that is precisely what you and the Second Elected Member from Cayman Brac got up and said at your public meeting, which he quoted from. You quoted what the Governor said, yet there are now two things that were used as political rhetoric by the First Elected Member from George Town. First of all that Member said that he did not know that anything different was the case, yet he stated the difference. Then of course, he insinuated that by that being said in the meeting in Cayman Brac that somehow we knew about changes, or we were proffering changes, and saying how the way forward was. The Governor outlined the way forward for us—The First Elected Member for George Town was in the meeting in that Committee room so much so that he could stand in this Chamber and quote what the Governor said.

Madam Speaker, he and the Second Elected Member from George Town and the Member from East End like all these fancy little sayings . . . but this is a dark day in democracy when rhetoric is going to be used to justify these sorts of actions. We have an amendment before us that levels and takes the edge off this whole issue. It allows us to take a step back and say forget about it now, we are not voting on anything.

Let us just utilise another form of motion that is at our disposal that says we are going to take note. We are telling the UK Government *'here are the sides, just take note. We are going to give you a position paper'* . . . they have alluded to giving a position paper. It is all sent off. We can get past this adversarial role of having to say we are going to be posturing for position and vote. We are now saying let us just bring logical reasoning and

argument to the Chamber. But the Opposition cannot support that.

What times we live in! If there is one thing I am going to make my job for the next 24 months if God spares my life, is to continually expose the actions of the people that call themselves and proffer themselves as Opposition. For I do not see anything that is opposition about this. This People's Progressive Movement (PPM) is downright arrogance at its highest form. It is high-handedness at its highest form. Five of them want to talk about personality and 'friend-friend' politics. 'Personal Power Movement'—that is what the PPM is. All about power and dragging the common citizen into this with misinformation.

If they wanted to educate the people what better forum there is than to come in the Legislative Assembly where we are looking eye to eye debate. Not one saying something at a meeting on Thursday night, another one saying something else at the meeting the next Tuesday night, someone else comes back at a next meeting—No! that is why democracy is supposed to be around these Chambers. You can say all the rhetoric you want out there but when you come here and you put your position forward and let the chips fall where they may. Let the people judge what they are hearing and also be educated. Let us all grow together.

This Chamber serves as more than just a place you come and you vote. There is a lot more involved in the Legislative Assembly in governance than voting—governance—improved governance is what we want. This amendment seeks to provide a way for us to move forward in a way that is in the best interest of our citizens and ourselves. Where we can now take a step back and just debate. I would like to thank you Madam Speaker for allowing me those brief comments in this Chamber and that is a very important comment that I do not want missed by the ordinary citizen. I would like to thank the Speaker for allowing me—because the Speakership is a very important institution and the education of that is best effected from here where the people can hear and see exactly what the Speakership involves. . . that you are not just going to pluck someone out of the air and pull them off the street as they walk down Fort Street and say 'come in here, you are going to be Speaker'. This is an involved intricate profession. From what I understand it is the third highest in order of precedence in this country and I can tell you, Madam Speaker, no one has yet shown me any reason we should give that sort of power to someone other than an elected representative; other than someone that the people have sent here. The people should send the Speaker to this Legislative Assembly.

I would like to thank you again and to thank my Members for indulging my brief comments. Thank you.

The Speaker: Is it the wish of the House to take an afternoon break or would we proceed to ask another Member to speak? Does any other Member wish to

speak? The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: Madam Speaker, I would be prepared to take a break if you wish.

The Speaker: I am entirely at the wish of the House. So be it. We shall suspend for 15 minutes for the afternoon break.

Proceedings suspended at 4.06 pm

Proceedings resumed at 4.32 pm

The Speaker: Proceedings are resumed. The Honourable Minister for Health.

Hon. Gilbert A. McLean: Thank you, Madam Speaker. I rise to speak to an amendment to the substantive Motion moved by the Honourable Minister for Tourism and Leader of Government Business some several months ago which would allow the Legislative Assembly to debate the Report of the Constitutional Commissioners and to take note of its contents and the views of Members of this Honourable House.

I support this change in the Motion for various reasons some of which are the fact that to debate and take note gives every Member the opportunity to express his view on the Motion to debate on the Commissioners Report; to state their agreements with the sections on which they agree and to state their disagreements with the sections on which they disagree. And of course, give their reasons for it in both instances. This amendment would allow us to find a peaceful and forthright way of dealing with this Constitutional Report.

In fact yesterday the First Elected Member for George Town accurately stated what the former Governor said to us concerning the debating of this Report. He expected all of us to do so and indeed it would have taken place way back in April of last year had we not agreed to extend the time for consultation some nine and half weeks.

When we debated the Report he would get the *Hansard* of exactly what we said and send that along with the Report to the United Kingdom Government. The officials there would have the benefit of seeing what everyone in the House said and also what the Commissioners said. Out of the debate and the findings of the Commissioner they would be able to arrive at a solution as to what the Constitution should be. He accurately stated that and I agree that that was said. Also, the part that states if there was some disagreement once the United Kingdom Government had drafted a Constitution that it could possibly be settled by telephone calls between the United Kingdom and the Cayman Islands legislators. Or, if it were something bigger he would bring those in to discuss it.

Moment of interruption—4.30

The Speaker: Honourable Minister, we have now reached the hour of interruption. May I have a Motion

to suspend Standing Order 10(2) to allow the debate to proceed until 6 pm today?

Suspension of Standing Order 10(2)

Hon. Gilbert A. McLean: Madam Speaker, I would like to move the relevant Standing Order to permit debate to go beyond the hour of 4.30 until 6 pm.

The Speaker: The question is that Standing Order 10(2) be suspended to allow the proceedings of the House to continue until 6 pm today. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: Please continue Honourable Minister.

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

I was commenting on the fact that what the First Elected Member for George Town said yesterday was correct in terms of what we had been told by the Governor. I dare say that there are those who believe that we in this House can write our own Constitution. Or, there are those, perhaps, in this country who believe that because we the people may have a particular view the United Kingdom Government must accept and adopt that.

That, Madam Speaker, as you would be aware, and all Honourable Members here know, is absolutely not the case. The Constitution of the Cayman Islands at present is something that was given to this Island by the superior parliament in the United Kingdom. And anyone that we will get after this will be exactly the same. Even if there was one of an independence type of Constitution it still would be drafted by the United Kingdom. So, the point I make—and I fearfully use the word ‘independence’ because tomorrow I dare say you would hear that I said we need an independence Constitution—is that the Constitution is absolutely the business of the United Kingdom Government, no more and no less.

We get the opportunity to talk about it and what we would like to see in it. Personally, I have been very clear over the past 20 plus years on what I think about the Constitution and where it should be and where I think responsibility should lie, and the responsibilities that Ministers should have. Regrettably, if the Government of the day had adopted the 1992 Constitution we perhaps would not be here now talking about this whole matter. Certainly, I can say now seeing it from the side of a Minister, that life would be much easier in attempting to get one's policy moved forward than what the present Constitution allows. Be that as it may.

Madam Speaker, I am not in the least bit surprised at what has taken place in the past two weeks in the country. I was just as sure that there would be some kind of political disruption by the element that is disrupting the process. I feel just as sure as I have to die. I knew it. I did not know exactly how it would come about but I knew it would happen and indeed it has happened.

We have the Commissioners' Report. We gave nine-and-a-half weeks after we read it ourselves, took it to every single district and all the rest of it. Initially, we met and looked at it and thought it seemed straightforward to accept it. Other parts we had disagreement with. We knew that we could not change it, we could only come in Parliament and offer our views on it and say we agree or disagree, with the hope that the United Kingdom Government would take note and act accordingly.

We too heard the words of the people, in fact, there are nine of us who have heard from the people, which is almost twice the number on the Opposition side. We heard what the people said about the various things such as 'one man, one vote' dividing up the country and all the rest of it and we have reflected it in the Paper which we have prepared as a result of the various meetings. I am sure we will come to the fore in the House at some point in this process.

The thing that struck me was that if we were to believe for one minute what the five Opposition Members are saying, the only people who have ears to hear and determine what national issues are would be them. Forget about the rest of us . . . we cannot hear; we cannot discern; we cannot analyse; the people are not talking to us. *They think—but they are and they have been and they continue to do so.* We hear, we know.

Madam Speaker, just to choose one item and it is certainly of no disrespect to the Chair but the issue of Speaker is a subject that has been belaboured by so many people who do not have a clue as to what the Speakership in Parliament is! I feel obliged, since that is an Office in this Honourable House, that I should address it briefly. In my time I have never yet heard of a ruling of the Speaker affecting any price in any of the supermarkets here, or that the ruling of the Speaker affecting what happens in Barclays Bank, CIBC or any of the banks in the country, or what happens in any one's home, or in any restaurant. Certainly not—because of one basic and fundamental reason, which is: The Speaker's business is absolutely confined to the Chamber and the precincts of this Honourable Parliament. Parliament stands alone in its autonomy. It is supreme; it judges itself; it disciplines itself; it appoints Speakers or it removes Speakers. Only the Parliament can do it.

I have listened in considerable outrage and also today as I drove I listened to an individual who (like the hymn "Count Your Many Blessings, Name Them One by One") seemed to count his many words and named them 'one by one'—talking and disre-

specting the Speaker of this House, which is in contempt. But how do you get into the minds of people who do not know the concept of contempt? They have no respect; they do not even respect themselves. And they do not even know that they do not know, so that they could try to find out what the situation is.

The radio stations, including the government's radio station, deal with this type of thing every day. It is the means by which unknowing people are constantly disrespecting the Office of Speaker and this Legislative Assembly. Those people who do not know would not understand that they are messing with the very heart and soul of democracy! Ignorance is killing us! This is where democracy lies. It does not lie within the other departments of Government. It lies here! If it goes wrong here it is wrong everywhere else. It does not lie in the courts—the courts cannot proceed until we create laws for the land. Ignorance is rife.

Tomorrow Government will be accommodating the ignorant again to further disrespect—they will be talking about what I said too and it comes down to a situation: Where does it end? Where does it become a situation where there is a systematic action that is inciting the public in the wrong manner? It has to have a legal interpretation somewhere along the line. At some point the Government and the Governor must be obliged to take a careful look at what is happening now. I have my own ideas that I will give them at the right forum.

I chose one and that was the question of Speaker so, Madam Speaker, I do not accept that the question as to whether the Speaker comes from within or without the House is one of major national concern! It would be ignorant to believe that. We are simply copying and following what is done in the British Parliament, which is a superior parliament *letter for letter*. And that has been going on for hundreds of years. We are here doing nothing differently from what is happening in all the other Commonwealth countries of the world regarding the Speakership.

It is not a question of how the Speaker is chosen; it is all personal; disgustingly personal. As a people we are killing ourselves because we cannot detach ourselves. I listened to someone who every-day he skips from one radio station to the other in the morning and in the evening to further promulgate his foolishness; where he systematically chooses the man who presently holds the position of Leader of Government Business in the Parliament and he personally disrespects and castigates him. Now, it does not matter to me personally if he may not like the individual . . . that is his personal business but when he does it to his official office it is my business! It is the business of this House! It is the business of every Minister in this House when that type of thing happens. It is a break down of law and order! What they are doing in the United States? Whether they choose Senator A or B would a radio station [the host] sit

back and accommodate them to personally attack them? Of course it would not happen. It is not civilised.

Look at the uncivilised thing that is happening in this country and I bleed as I think of it. Those are the reasons why our colonial masters and the industrialised countries put us all under one blanket term, 'natives', which means ignoramuses; people who are not civilised; no social graces, no sense to detach the professional from the personal. That is why it happens and it gives me the gravest concern.

The people are supposedly leading the charge on behalf of the people are 'latecomers'. I have led the charge on behalf of the people 30 years ago when the Law, like the Planning Law for one thing, came as a real result of me demonstrating the streets so people could keep their land. And everyone did not need five acres to build a house on. So, they have come in late. They do not know anything. Life has been too easy. And if all that they can do is to further put misinformation in the minds of people who already do not understand, it is a shame and I think it is a crime—a disgrace.

Madam Speaker, I will not try to speak about the other six things, which are listed here because we have dealt with all of them in our position as a Government. We are putting our views forward to the United Kingdom and they can do what they want and they will.

What I hope that the United Kingdom Government will take serious note of is what is happening here on the ground in Cayman. I have no knowledge of what is transmitted to the United Kingdom via His Excellency the Governor, but I know he is sending dispatches. And I sincerely hope (and I believe he does) that he is giving the United Kingdom the true picture because they can miss it. The reason I say that is because we are talking Constitution again—when we were talking it in 1991, I was over on that side and I was beat to pieces by the government of the day led by Mr. Truman Bodden. So, I know how these things go and I know that there was a collusion between the British Governor of the day, Mr. Michael Gore and the then government which did not allow the 1992 Constitution at all to be debated in this House. I do not know if the British know that, but that is a fact.

I worry what will happen out of this one and whether the British Government will be persuaded that a loud minority makes a difference. I have in my hand the *Hansard* report from that time and only [portions] of this reach this floor. So, I wonder what is happening. What I am saying is generally based on the concern of what will happen.

I know that the British Government has a responsibility to the United Nations and indeed they seem to be taking it seriously, at least, under the Labour Government . . . the White Paper, etc. One of the things that they have said is that there is to be a modernisation and the last Governor appointed

Commissioners to do the job. I think they were able persons and I think they did the job well. While I disagree with some of their recommendations, I attended those meetings in three different districts and I heard people say, '*We want a definition for Caymanian and it must be Cayman, you have to put that there*'. They said it and the Commissioners did it.

The fact that I disagree with that does not mean that I disagree with the fact that the Commissioners heard it and wrote it down. I disagree with it from a broader perspective because if we were to accept this—and I hope that the United Kingdom does not accept it. . . very strange for this nationalistic person to say, but we ourselves had taken steps to include more people living in our country under something called Caymanian status. So, I cannot rationalise how we suddenly say, '*I am a Caymanian but I exclude those that I created before*'. It does not make sense to me. So, it is on those grounds that I disagree. It has to be sensible, rational, logical to me.

But I would not say that the Commissioners were not told that, because I heard that they told that in different districts when listening to the people. That is what this debate was supposed to be all about; that each one could give his view on this particular matter. But what happened instead? The previous Government that is now the Opposition, who was removed from the Majority and put in the Minority wants to find something to whip up the emotions of the public on. What has that come down to? The Government supposedly does not want the people to have a referendum.

Madam Speaker, the absurdity and again the ignorance of some of the population to understand that whether or not a Motion comes from the Government side or from the Opposition side, it has to be submitted to the Clerk who will duly stamp it and the Clerk must pass it on for the acceptance or rejection of the Speaker. I have had many [Motions] that I had to change. Mr. Speaker sends it back, '*I will not accept this in this form. Should you change it I will accept it*'. And I moved dozens of Motions in my career here. That was the case and you, Madam Speaker, found defects in it and you told the two people who brought it to change it and resubmit it. Now, instead of doing that, look at the incredible, dirty thing that was done.

Out on the steps of our Legislative Assembly the First Elected Member for George Town, *his henchman buddy* and the rest of them called up the press, '*See here, look what they did to us, they would not accept our Motion, they do not want you the people to have a referendum*'. It is despicable.

If the First and Second Elected Members of George Town and the Member from North Side wanted to have a Motion in this House to debate referendum, all they had to do was to correct the Motion and resubmit it. Why was that not done? You know why Madam Speaker and Honourable Members? They did not want to do it; they wanted to do exactly

what they did and they had so many friends who joined the fray. That seriously angers me and disturbs me because it is wrong. What bothers me even more is that there seems to be so many people in the public who do not even understand how they have been used. It really disturbs me.

I have been an Opposition Member for the most part of my time in this House and whoever followed it over the years knew that as sure as the name Gilbert McLean went on a Motion it was going to be rejected by the Government. It was a joke! It could have been something that would have told us about a ladder going to heaven if my name was there it was going to be rejected. The record shows it but I knew the only way—and in some instances I was the only single Opposition Member in the House—that I could get across the view that I wanted was by getting a Motion so it could be discussed. What did it do? It forced the government to debate it. I had the opportunity to say I wanted to say even though the government shot it down. Did they want a Motion about referendum? No, they wanted to create a situation in the Cayman Islands where people, even overseas, believe that our parliamentary process is falling to pieces. And they, *'Poor, poor pitiful me'*—that song by Linda Ronstadt—they are applying that lavishly to themselves.

What I guess 99 per cent of the country is not aware of is that there is already a provision in the Constitution for referendum. Madam Speaker, there is already provision in it to call for a referendum. So, all that was needed to bring a Motion for a referendum to this House was for those people to correct the Motion and bring it and it would have to be debated. It is section 29 of the amendments that came about in 1993.

I hear the First Elected Member for George Town who I understand is the declared interim Leader of the PPM says that how do we know what the majority is thinking. One minute he is saying that he and his colleagues absolutely have the word of the majority and then he is questioning his own statement. Which one of us can say we know what is the view of the majority? Well, which one is it? Do you have it or do you not know it. It is very typical of that Member's political posture. The posture of the Opposition is: *'We do not have any opinion, we want to know your opinion'*. Well, if they do not have an opinion about something as important as the Constitution why are they there? Are they really serving the people? The people voted them in because they believe they knew about the Constitution, et cetera, and could indeed put forward views unassisted by the public on every issue. They do not have any view on the Constitution.

Of all these recommendations made by the Commissioners they could only find six. They do not have any view about single membership constituencies or about continuing things the way they are. What kind of people are they? The kind of people who are now creating in this society a degree of unrest and uncertainty and it is not even helping them—

some of them have business interests—because an uncertain population does not help anyone.

Talking about majority: Who is the majority; who has the majority; what is the majority view? I have heard statements like, *'Why don't we call a referendum and put this to rest once and for all'*. I have heard it on the radio and read it in the papers and heard it espoused by some of these people in the media. Does a referendum put things to rest once and for all? A referendum is like a poll that runs in similar lines as an election. But let us say they put the question of the Speaker's job to a referendum and 51 per cent says that it should be someone from the outside. Does it mean that the 49 per cent were wrong? Or, what would be the view three months later when something happens, would it be the very same view? Not necessarily so. That is what 'gallop polls' are about. People's thinking and things change daily, weekly, monthly, yearly as the case may be. Circumstances drive it and the circumstances that are driving all of the 'hullabaloo' right now is that these people who do not have a view are able to [influence] certain people in this country to believe we here are stopping them from having a referendum.

Madam Speaker, it is quite incredible; it is deception that is afoot. I was not on the Island when the big announcement came out in the papers but I came back to see a front page—and the media accommodated it—*'This is not a political party Bobo, this is a political movement'*. *This is a political organisation'*. Whoever heard foolishness like a political movement inside of a Parliament? You can have a political organisation but the only type of political organisations that Parliament understands and regard is a Party. That is the universal word for it. *'But we are not a political Party, we are a Movement'*. It is all deception and it is amazing how many people can be deceived. Why is that being used? I suggest that it is being used because the people of that Movement are trying again to play with the minds of the unknowing that parties are those bad things that happen in Jamaica. *'And you know, everything that happened in Jamaica is going to happen to us'*. That is exactly what it is about.

You see political meetings in the middle of town on the steps of the Court House where elected Members get up and say they are proud to be a Right Winger. I wonder if they have any clue about the things that are attached to those terms. I do not believe so. When you are an extremist Right Winger it means that you are a racist; you are everything. They use words and they do not even know. I hope they do not know what the implications attached to them are. They choose some real psychological places though. When it is not the steps of Parliament it is the Court House. It frightens me.

Madam Speaker, if the Opposition wanted a referendum they could have had a referendum by bringing the Motion. And if, like they said originally, their people told them not to come to the Legislative

Assembly because it would have been a slap in their faces, they have some peculiar ways of thinking. The cost to the country for this month for those five Members who do not slap the people in the face by not even coming and planting themselves in those chairs is \$36,970. I wonder what they are doing now. I wonder where they are now. Like the saying, *'Parents do you know where your children are?'* This is the cost to the country.

As for the Checklist that they are talking about that Checklist was but for our guidance as legislators and indeed the Commissioners. This section 18 that supposedly has driven them to the lengths that they cannot grace the people of this country—and I hope they understand that it is more than their people that are paying taxes and paying them—where it says, **“Do the changes suggested by the OT Government have the support of the majority of the population?”** Personally, I would say yes because I think the Commissioners discovered what was the majority view. They did not do any referendum either but certainly they went to every *'nook and cranny'* in this place. They even put out what could be considered a questionnaire in the newspaper that you could fill in and send back. **“What is the evidence of such support?”** The Commissioners have stated the number of persons that they interviewed who came to them; who sent in the questionnaires; who met them in every district over nine months. Now, when we are supposed to be debating this to move it forward to send it to England suddenly we must have a referendum. What a real sad situation. **“Has there been 'extensive' local consultation (with or without the assistance of Constitutional Commissioners or Commission . . .)”** There has been extensive consultation with the Commissioners, with us the Members of Government. And if we are to believe the Opposition, they too. **“. . . Followed by a debate in the legislature in which the suggested changes have been approved by a Motion”**. Indeed the Motion is here. It is a 'take note' Motion and that was the amendment that the Leader of Government Business moved so that we all have the opportunity to debate and take note of it. If they wanted to have a Motion where something is adopted or approved then had they stayed around they might have had that.

Madam Speaker, I support this Motion and I think it is a very serious time in this country when those of us in Government worry about the revenues of the country; worry that we are feeling the effects of the slump around the world, in our tourism; worried that we cannot sustain the level of unemployment among our people. Some of them are *getting off* on whether the Speaker of the Legislative Assembly must be chosen from the outside or from the inside or be a Member of a Party. Or, whether or not the people should initiate a referendum. England says no! So, what am I to do? We have no power to do otherwise. If as long as we say that our political condition

in our Constitution is what it is and that is the way we want it then that is what we get—as simple as that.

In these instructions to the Commissioners the British made it very clear that in making any recommendations or changes, it cannot affect the power, which they themselves, by law, must hold and wield directly and through their Governor. So, what are we supposed to do? What we are supposed to do is what the Government has done today, which was agreed by all 18 Members of this House: to come here today on the 19 June to debate this matter and to send our views to the United Kingdom. I am very glad to see that there are Members in this House who take that duty seriously and I certainly stand with them. I support the amendment, which has been requested by this Motion and when the time comes to vote for it I most surely will.

The Speaker: Thank you, Honourable Minister. Does any other Member wish to speak to the amended Motion? The Honourable Minister responsible for Education.

Hon. Roy Bodden: Madam Speaker, I wish to register a few comments on this amended Motion and in so doing I will try my best to avoid repeating arguments that have already been excellently articulated by my colleagues who preceded me.

Before I get into that I wish to indulge your attention to raise a concern. That concern is, from the time I have been here I have never seen this kind of politics in the Cayman Islands. If God spares my life, the year 2004 will be sixteen years since I have been a Sitting Member. I have seen many wars including 1990, the period that we call the 'dirty war' but I have never seen this kind of confrontational politics where people insist on involving and bringing people in from the streets upsetting the country; taking advantage of their position, and the trust people have placed in them. We contained our differences within these Chambers and even when there was reason for protest the protest lasted only as long as was necessary. There was no barbarous whipping up the people and bringing them day after day platooning them. I am registering my concern because I am worried about this trend. These things have a beginning and I do not like what I am witnessing.

The debate; the question; the issue; the amendment is straightforward. I have to say that the Opposition by exercising its choice to boycott this session has committed a serious abdication of responsibility to the very people they claim to represent, and I hope that those people take note. For debates of this nature are not carried on at the Seaview or the Sunset House, they are carried on in this Chamber. If the people's representatives are not in this Chamber when they are supposed to debate then the people's voices, expressions and positions cannot be recorded.

I would think that any reasonable person would understand the reason we cannot vote on the

matter is because there are elements in the Review that we agree with but there are elements with which we do not agree. If we vote yea or nay we will be boxing ourselves into an unfavourable position. Therefore, the most logical position to take is the position where we take note and register our agreement with the things which we can agree and register our disagreement with the things which we are not prepared to accept—that is elementary.

Is the Opposition by their absence saying that they do not wish to take part in this debate? Are they saying they considerate it inconsequential, irrelevant, and unimportant? Or, are they saying that their absence is a downright contempt for Parliament and the procedure? They will have to explain that to the people whom they claim to represent. I notice that at some stage in the First Elected Member for George Town contribution that he clearly and unequivocally claimed to be representing the majority of the people. I hope those people hold him to account.

This exercise is so important that we should not sacrifice our long-term objectives for the short-term glamour of a false success. This exercise is not about who can have the greatest number of people demonstrating before the Glass House. It is not about who can bring the largest number of people to the galleries of the Legislative Assembly. It is not about who can bring eminent speakers from independent countries to advise on Constitutions. It is about, honestly and conscientiously, seeking to accede to the wishes of the Caymanian people as to what is best for them. But in so doing we have to recognise that the Government must always—because that is what the Westminster White Hall system of democracy is predicated upon—maintain the ability to govern. The government must always be in a position to exercise its majority. Under the Westminster White Hall system the sanction that the Government faces is that the next poll if they run into disfavour they will be turned out from office. But the Government cannot be intimidated by the Opposition; the Government cannot be manipulated by the Opposition; the Government cannot accede to the unreasonable wishes of the Opposition in all cases. The Government must exercise its majority and this Government has not only been exercising its majority but it has been exercising conscientiousness, honesty and diligence. We must not be intimidated by duplicity.

Clearly this exercise started a long time ago and when it originated the present Government had a different Leader who is the First Elected Member for George Town who purports to be the interim Leader of the People's Progressive Movement [the Opposition]. That gentleman was the same gentleman who moved the Motion calling for the implementation of a referendum law. Now, the question I wish to pose is this: If that gentleman's intentions towards establishing some mechanism for a referendum in this country were so genuine why then did he not follow through when he was Leader of the Government; command-

ing the majority to have a clear and unequivocal instrument calling for a referendum; implement it as a law in the country?

The second question is: When his Motion was tendered and the Honourable Speaker suggested that it could not be accepted in the form in which it was submitted, but would have been readily accepted had it been modified, why was it not modified to accommodate the wishes of the Speaker so that it could be accepted as an instrument of debate in the Legislative Assembly?

Madam Speaker, you know what I do not like? I do not like *Jekyll and Hyde* personalities. I do not like people who *blow hot and blow cold*, and I do not like people who do not know whether they are *fish or fowl*. I fail to see now how certain people can arise as champions of referendum when they had two clear chances of doing what could have been done. You know what is true? This whole business is not about referendum. If you get to the bottom of it, it has little or no basis even in the Review of the Constitutional Commissioners. This whole business is about power! It is about leadership! It is about who should be here and should not be here. I could tell you—if would not be such an exposé—what it has its other basis in and it is obvious for all to see.

I hear some people threatening, '*Two years . . . all they have is two years*'. Madam Speaker, *if men were angels there would be no need for government*. And that is what Alexander Hamilton, one of the founding fathers of the United States, had to say. I do not think any Member on this side, whether he is a Minister or supporter of the Ministers or Members of the UDP, is afraid to face the polls.

I say again, we cannot sacrifice the long-term objectives of giving this country a modern instrument of government as per the wishes of the United Kingdom as expressed in the Partnership for Progress (the White Paper as we call it) for the short-term glamour of a false success to accommodate any ambitious leader who blew his chance of leadership.

Madam Speaker, there is no other way for us to deal with this Motion than the root upon which this amendment sets us. But I want to say something else too: While the Opposition is successful in distracting the national attention by telling them that we must have a referendum the Government is occupied with trying to keep the economy of this country on a sound footing.

We are facing for the first time serious unemployment. Construction is just now beginning to show some signs of coming back to life. I do not hear the Opposition with any alternate plan of ensuring continuing economic progress. I do not hear them with any plans for employing the young people who are now graduating, returning from studies abroad. I do not hear them with any plan of how the Government can *kick-start* the economy by embarking on any Public Works project that is going to bring money into the country for the local people. I do not hear them with

any plan of incentives for attracting outside investments. I only hear them challenging the Government and encouraging people to vote with their feet trying to topple the Government before its natural term of office is up. It is the height of irresponsibility. It is nothing but a power play. Their intentions are not honourable. I say this without fear of successful contradiction.

We shall have to ask ourselves *when the chickens have come home to roost* whether this behaviour that the Opposition has embarked upon—and is insistent upon perpetuating from one end of this country to the next and onto Cayman Brac and Little Cayman—is in the best interest of the development of this country. Or, whether we are doing ourselves a great disservice and a great disservice by introducing into Caymanian politics an element that has hitherto never been experienced. We are on the threshold of garrison politics! Because I have never seen such a relentless display of power and arrogance, and such a promotion of hatred in all of my time in this Legislative Assembly. Madam Speaker, I am saying that if it is not curbed it will lead us down the path to which we should not go.

I stand by this amendment; I believe that what the United Democratic Party Government is doing is in the best interest of the country at this time; I believe it is in keeping with the wishes of the United Kingdom; it is completely legal; it is parliamentary; it is democratic. If the Opposition wanted to display maturity and responsibility they should be here now listening to the Government Bench and coming up with a counter argument, so that their position is recorded in the *Hansard* of this House and people who they claim are in the majority could be sure that they are being represented.

It is the first time in the history of the Parliament of this country that a boycott of this nature on such an important issue has been carried out. It is cowardice but I believe the reason why they are not here is because they do not have a solution. And all they are harping upon is the numbers of people behind them. Might is not always right! And they may have a very vocal minority but I remain to be convinced that they have the majority. I know the constituency from which I come have always exercised sound judgement. My people call me every day to say that they are sensible and discriminating and that they are worried about the path that some people would have us embark upon.

I give my support to this amendment and I give my pledge to always put the interest of the people first as I have always done. I believe that all of us in the Government of the United Democratic Party have exercised judiciousness, responsibility, democracy and respect. I will encourage my colleagues to continue to do that but I—and I crave the licence of my colleagues to include them at this time—will be no part of destroying this country with an element of poli-

tics that hitherto have not made its presence known in these good Cayman Islands. Thank you.

The Speaker: Thank you, Honourable Minister. Does any other Member wish to debate the amendment? If not I will now call on the Mover should he wish to exercise his right of reply, the Honourable Leader of Government Business.

Hon. W. McKeever Bush: Thank you very much Madam Speaker.

I want to thank all Members for participating in this debate thus far. Because the original Motion is intended to be amended which would really give me four chances to speak I do not intend speaking for so long at this point. However, the PPM debate a while ago was so 'wishy washy' that the vast majority of it does not deserve to be replied to.

I must speak on some areas, in particular the matter of why we amended the Motion. The original Motion, which was amended, was talked about by the First Elected Member from George Town and Leader of the PPM. I know other Members have spoken about it here on our side but let me repeat: Had I left the Motion as was originally planned I would have had to reject the Commissioners' Report totally or adopt it totally. We could not do that because we agreed with certain parts and disagreed with other parts. Besides that, we here in this House have no power to amend the Report.

We, as Elected Members, will have an opportunity to accept it or reject it when the United Kingdom, Her Majesty's Government, has put a new Constitution before us. But outside of that we have no power to do otherwise.

The First Elected Member from George Town and Leader of the PPM talked for a long time about referendum. I too want to say that no one could ever say that you are unfair because that Member really debated the Motion that they had originally planned. But you gave them the widest latitude to do as he did. Other Ministers and Members, including myself, here have congratulated those genuine persons who thought it necessary to sign a petition. That is people's right if they so choose so I have no problem whatsoever with that. However, I do have a problem with the PPM who saw a referendum as their way out of tabling their position in this House. I have a problem too with those persons who misled people around the country on this matter of a referendum.

Madam Speaker, we must all remember that no one on this side started that Review. It came about because of the new government in the United Kingdom (the Labour Government) with their publication of the much-touted White Paper (Partnership for Progress and Prosperity). And it comes about, I believe, because of the United Kingdom's great responsibilities to the International Treaties that they are signed on to. Being part of the European Union they are all embroiled in that Union. So, they initiated the need for modernisation of the Constitution and a modernisa-

tion of the entire Government including the Civil Service.

Madam Speaker, last year when the Governor appointed the Review Commissioners, I, as Deputy Leader at the time, did not know who had been appointed. But I can tell you that at all material times the First Member from George Town, who was then the Leader of Government Business, knew who the Governor was going to appoint. As I said yesterday, none of them voted for McKeeva: none of them were on any of our platforms. And so the First Member from George Town was well embroiled in the whole aspect of getting this Constitution reviewed. You did not hear 'quey hey' about it because he was going to be the all powerful person that they claim; he was in the driver's seat; he was going to be the Chief Minister and there was nothing wrong with that. You did not need a referendum—he suddenly forgot about the Referendum Law that he should have brought during the course of the year . . . as he said this morning he forgot about it . . . he forgot about it. Madam Speaker, people must be truthful. When they take a position they must stand up to that position and say to the country, *'Ladies and gentlemen of the Cayman Islands this is what I stand for'*. And the day that you cannot do that you should get out of politics; you should get out and cease being a representative of the people.

What I do not appreciate with the whole referendum effort is that the PPM is telling people now that, *'Look it is not my effort you know, this is the people's effort, we are doing what the people want and we did not start this, the people started it'*. That is the biggest lie that has ever been told in this country! Because all the movers and shakers of the 'majority'—those who came with those wheel barrows; People for Referendum, from West Bay to Cayman Brac—are all part and parcel, if not members of the PPM.

What I did not appreciate was when they went around to people, for instance in West Bay and said *'You can sign this, it is not about Mac [McKeeva] this is about independence so we want you to sign this'*. Of course, at the time I was off the Island trying to take care of some business that the former Leader—which I am going to talk about later on—should have done. But had I been here in my constituency they would not have gotten away so easily because the people would have been more active. It was definitely wrong for the PPM to tell the public that everyone could sign this kind of petition, a petition which depends so heavily on being constitutionally correct. They (PPM) knew that only people on the electoral list would be counted in this instance. They also knew that if people signed the petition they would feel that their names must count. But this is not a game as the Minister for Education said. This is not a game that you play in a bar room or around a domino table. This is a most serious business.

The Opposition knew that children could not sign the petition because it is not legal. They knew that tourists could not sign the petition because it is not legal for persons that have no right to vote to be involved. They knew that, but did they try to tell the people that? Of course not. The only aim and objective of the PPM and the Leader is to get people worked up; put their names on the paper and then feel committed against the Government. That is the aim of the Leader of the Opposition. The only aim and objective of the PPM is to get the people worked up and then feel committed to them (the PPM) as an alternative.

I believe there are genuine people who believe a referendum is the way. But how can you go out and take a vote on so many issues? It is not practical and it would have been better if the Opposition had done their job and explained that and put the position before the people of the country.

I do not support the referendum but the truth is, the Member leading that group had time last year to bring the law. And since he asked: For one, when Truman Bodden was the Leader he should have done so. But you see, Madam Speaker, that is how they operate; criticise; whip up and say all manner of things as he is doing now when he is not in the position. But when he could have done it if it meant so much to him, he failed to do it—he did not remember—conveniently did not remember.

Madam Speaker, it is a poor situation for them. I have also been listening very keenly to what was said and is still being said about the Constitutional Review. There have been many valid points made but I sincerely wish that a higher ground had been taken by the Opposition. I wish they had taken the time to educate, to put forward their views on issues and questions and to explain to the people. However, they did no such thing for the vast majority of the time. Rather they just took a position that says the people need time. Well, we agreed on that too that the people needed more time but they still did not put their position. They then brought in someone from an independent country to tell them how an independent country works because he could not tell them out of experience how Overseas Territories and dependent countries work. He is the Leader of the Opposition in Barbados, which is an independent country.

Instead of educating and correcting, where they know that people are not drifting in the right direction, what I have been hearing, Madam Speaker, and I also read in the paper by the Leader of the Opposition who is now absent is, *'Oh that McKeeva Bush is arrogant'*. The Leader of the Opposition says that I have taken a high-handed approach and that there is victimisation. Then you hear them talk about dictator.

I do not tout or *blow my own horn* because everyone knows McKeeva and anything bad that they could say about me they have said. And I also believe

they have said as much good as they want about me. But just let me say this is my fifth term in this Legislative Assembly—an unbroken tenure unmatched by few in this country! Why? Because I have served the people honestly and I have done what I could for them at all times.

I challenge the First and Second Elected Members from George Town and their cohorts in this House or outside to say how much they have done for the country. I ask them to say when this Member has ever not done what the people asked me to do and what I have thought was in the best interest of all the people. I challenge anyone to say on what issue, subject or policy have I ever done the people wrong in this country.

The newspapers want something to write—that is something for them to question. Tell me when I have stood in this House or made policy outside to do people harm. The people in the Opposition making the accusation of arrogance should examine their own lives. Does it look like a dictator to agree on the boundaries commission of which the Leader of the Opposition, although he is not saying anything about it, would have equal power of appointment of Members of the Public Service Commission. No! Of course he would not do that; he would not want to draw any attention to himself because he does not want anyone to start asking him, *'Well, Mr. Tibbetts what are you going to do about it?'* He will do about that what he did about the economy last year: Borrowed \$55 million to slam it and would not take advice against what he was doing.

Is it dictatorial powers to make place for the appointment of the judicial Commission? If the United Democratic Party was trying to take away power from any situation . . . well what about those sections of the Constitution, which are in fact, some of the major clauses in the Constitution? And, Madam Speaker, save but one, the Leader of the Opposition has the power to appoint Members to all of them just the same as the Chief Minister would. Did you hear him come and educate the public on his powers as Leader of the Opposition? No. He spends a lot of time talking about the powers of the Chief Minister and blowing them out of proportion. They have spent time scare-mongering, trying to make people believe that something is wrong and something bad will happen if the modernisation of the Constitution takes place.

The Review certainly gives the Chief Minister less powers than the last review. For instance, there is no appointment of magistrates and judges as was in the last review. They are just blowing things out of proportion and it is all because they are not there now. They have been accusing us of victimisation—victimisation against whom? You mean because some people's little kingdom was pulled apart? It was not doing the country any good. But I challenge the Opposition here today, each of them, to say what or whom in this country has been victimised. I challenge

them. The day that they name someone then perhaps more will be exposed than they want.

I have always acted in the best interest of the Cayman Islands. They talk about high-handed manner: have we not all agreed on the things the public asked for, which is more time?

The Speaker: Honourable Leader, it is now 6 pm. Is it your desire to continue the debate or would you wish the adjournment at this time as we originally decided.

Hon. W. McKeeva Bush: Madam Speaker, I do have a few areas left and perhaps I might do it in 10 minutes but I do not think I could do it otherwise.

The Speaker: I am in a position that I can stay as long as the House is desirous. Is it the general consensus that we continue until the question is put on the amended Motion this afternoon? Please proceed accordingly.

Hon. W. McKeeva Bush: Madam Speaker, thank you very much and I thank the Honourable Members for continuing.

I do not know anything about being high-handed because we as Ministers cannot just get up and do things. We have the Civil Service to go through and we have His Excellency the Governor to go through when it comes to civil service matters and departmental matters. Now, there will be accusations but the truth is what counts and not what some people get on the 'Talk Show' and talk about. I do not know anything about high-handedness, but I can tell this country that because of the bungled incompetence of the last Leader of Government Business the present Leader and the Government are spending a lot of time and money trying to fix situations to put the Cayman Islands in good standing. Because of his inaction and incompetence for one year, it will cost this country plenty and has done irreparable damage to this country's financial industry. He did not know what to do. You could not tell him anything and he would not listen to the Financial Secretary.

The European Tax saving initiative is being forced down on us. The Government before knew about it from 1999 and they did nothing about the Union's decision, which is now causing the European Union Tax Saving initiative to be forced on us. If the then Leader of Government Business in November 2000-2001, the First Member from George Town, had done what he was supposed to do when he was made aware of it sometime last year, and had he sent the letter that was given to him, we would be in the same position as Bermuda in the matter—not being affected. The decision does not apply to them because they asked to be left out.

Yet he as the Leader of the PPM had the audacity; has the nerve; the shamelessness to make accusations against us. This country will suffer because he did not know what to do and would not listen. He had no initiative. The European Union OCT

decision will affect this country in many ways to our detriment.

The difference between my capability and style, and his, is that I know what to do and will take advice from my colleagues and take direction from the people in charge of the areas that are not under me.

Madam Speaker, while all that has happened we are not going to roll over and play dead. This Government will find a way. I am talking about a draft letter to the Baroness Scotland that was given to the then Leader of Government Business last year. He did not sign it nor did he send it. It was critical at that time to register our concerns and our position as the matter was going to be concluded by August last year. He did not do anything and today we must now fight this issue.

Just let me tell this country how serious it is: Added to the administrative burdens of our financial industry to collect the necessary information to give effect to the taxation of savings directive, giving an advantage to our competitors, it will affect not only banks but mutual funds, administrators, the insurance industry and other areas of our financial industry. It is a most wide-ranging effect of our financial industry. Now, I, along with my colleagues, have our advisory council trying to deal with it. And we hope to prevail, as I said, we are not going to roll over and die. They talk about my style but as I said, I will take advice and when I believe I have the right advice I will move and that is what I did.

I was in Brussels and found out what the position on what is happening. As you know, Madam Speaker, you being part of the delegation that went to London, we are facing hard times and that is why I keep saying we are here arguing and spending time talking about a *few fire ants while the elephants are trampling us*.

I sat here listening to the Leader of the PPM saying how he is doing what the people want and that we must have a referendum. I have to ask the people of this country if the First Elected Member from George Town truly believes what he said why then did he (last year) preside over a position of putting this country into further debt of \$60 million for Cayman Airways? Why did he not go for a referendum then? Why did he not? Why? Much is being said about the referendum but do they really want a referendum, or are they trying to build membership for the PPM?

I believe that this country must have an Opposition but it must be a responsible Opposition; it must offer constructive leadership; it should not be capricious and opportunistic. What we are seeing today it seems like the duty of Opposition is to oppose. And it seems that this Opposition has that as their first duty; as their second duty; their third duty and right down the line—their duty to oppose. But you tell me what have they done for this country. You tell me the plans that they have put forward to rectify some of the

problems in this country. What kinds of plans are they coming up with to deal with the issues that we are facing? They cannot. They know the issues are there but you know what? That is one of the reasons why they want this argument on the Constitution to continue because that would take pre-eminence in this country.

But this Government is not going to allow that to happen. We must put it to rest so that the United Kingdom can deal with it. It will come back to us and we will have our say at some point. The Government will seek permission for that to happen.

Madam Speaker, there is no doubt the Constitution is important but the Review is not asking for independence. My greatest concern by far is not about the Constitution and a referendum, least of all. My over-riding concern is about the economy; saving people's businesses; getting our people back to work; getting them jobs; saving our financial industry; getting good investors here; getting our housing scheme in place. The scare tactics that the Opposition and the extreme protest that they are employing is designed to stop the impetus that has begun in turning around our economy and any *duck worth its salt* should appreciate that.

I too want to decry the campaign of hate that the leaders of the PPM and some of their followers are employing. It is most serious but I think it is wrong to suggest something is happening when it is not—to attack by misrepresentation as they have been doing to Elected Members' families in the press. Those are all signs of a desperate attempt to get power in their hands. Surely, these are signs and methods of the kinds of systems that all good men and women must condemn. Would to God that the people had a more responsible Opposition!

All this racket that the Opposition is causing is not about the people as they say. At the meetings by the Court House steps by the Opposition, the Second Elected Member from George Town said to the people and I quote, **“You must take back the power they took from you last year”**. I repeat that: **“You must take back the power they took from you last year”**. Now, Madam Speaker, what are they talking about? That is the *‘crux of the matter’*. That is the problem with the Opposition. Their Leader was disastrously ineffective and incapable of dealing with the problems of the Cayman Islands. He is good in Opposition but he will not and cannot deal with the problems of this country! He is incapable of doing so. Government was getting no where so he was moved and that is the power that the Second Elected Member from George Town says was lost last year and must be gotten back.

This is not about referendum or about the people. It is not! It is an age-old problem with some people here in this country where they do not want the shades of Linford Pierson; or McKeeva Bush; or Gilbert McLean; or Roy Bodden; or Dr. Frank McField to be here and direct policy! I have had to put up with

it all of my life. As long as I was pulling someone's bag McKeeva was the best person in this world but the day that I got up and said I want a pension for the people of this country; the day that I got up and said that I want a labour law for the people of this country; the day that I got up and said that I want housing for the people of this country then *he was a bad person*.

This is not about referendum. This is not about the people. It is about that group losing their seats on Executive Council and it is because of their friends no longer being able to come to the Glass House—and do you know that some of them are calling, *'Well, Mr. Kurt you cannot let that happen'*.

I said what?

'Who is this?'

'This is Mr. McKeeva Bush, the Minister of Tourism.

'Oh I am sorry, we thought it was the Leader of Government Business'.

Madam Speaker, I do not victimise anyone. I have put my political career in standing up for what I believe is right for the people of this country, and I will not do things to satisfy a group who really are not concerned about whether we have a Chief Minister. They are concerned about who is the Chief Minister. That is what their concern is.

If the Opposition, in particular the Leader, had put as much effort last year into doing the things that the country needed as he is putting negatively into this issue, the Cayman Islands would be much better off today. I can say to them that unfortunately there are international issues and policies bearing down on us which demand the Government's and the country's focused attention. Otherwise, we do not have the luxury of debating local government issues for such an extended time such as the timing of the Constitution. Or, for any of the causes they have asked.

Look at the things . . . is that what we are here having to go through this extended debate about? Those few things? What about the bigger picture; those issues that we have raised? And I say again, it is not about a referendum, it is about people that had control and do not have it now and they are not prepared to wait until 2004 to see whether or not they have another opportunity. They want to disrupt the working machinery of Government at this time but we will not bend because while he was elected all of us were elected. He is no different and he did not have any more prerogative of being there than any one of us. Now we are trying to get a system that will stop what happened in 2000. When they offered the [position of] Speaker and said listen, *'I have been in the Assembly for five terms now, I do not want to go in the Speaker's seat, not now. I want to be able to complete an agenda for the people'*. Even though it is one of the highest positions in the country and a very meaningful one. But that is what it is all about for them. I am not about power. I am about getting things done for people and doing good for people.

How can any Member of this House get up and talk for so long on such an important matter and not put forward their position? Do they have a position on the Constitution? Or, are they only interested in getting people against the United Democratic Party? I have seen it before and I say it again: The people who burn down the fire station are those who stand on the sidewalk saying *'Where is the government and what is the government doing about it?'*

Madam Speaker, I know I have been longer than the 10 minutes and I had better stop at this time. I want to thank all Members for this historic debate and we are not going to fail the Cayman Islands. This is for the long term good of the people of these Islands whom we all love. Because this is where our ancestors come from. This is where their bones lie and this is where we want our bones to lie—here in these Cayman Islands!

Thank you very much.

The Speaker: Thank you, Honourable Leader. I shall now put the question that Government Motion be duly amended as is set out in paragraphs 1 and 2, the varied form of effect would be, **"BE IT RESOLVED THAT the Honourable Legislative Assembly debates and take note of the Report of the Constitutional Modernisation Review Commissioners 2002."**

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

Ayes.

The Speaker: The Ayes have it. The amendment is carried and the Motion stands amended accordingly.

Agreed. That the Government Motion be duly amended as set out in paragraphs (i) and (ii). The varied form of the effect being "Be it resolved that this Honourable Legislative Assembly debates and takes note of the Report of the Constitutional Modernisation Review Commissioners 2002."

The Speaker: May I now have the Motion for the adjournment?

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, I move the adjournment of this Honourable House until 10 am tomorrow, Friday, 21 June 2002.

The Speaker: The question is that the Honourable House is now adjourned until Friday, 21 June at 10 am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 6:22 pm the House stood adjourned until 10 am Friday, 21 June 2002.

OFFICIAL HANSARD REPORT
FRIDAY
21 JUNE 2002
11.53 AM
Fifth Sitting

The Speaker: May I invite the Honourable Minister responsible for Planning, Communications, Works and Information Technology to say prayers.

PRAYERS

Hon. Linford A. Pierson: Let us pray.

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

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

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

Let us say the Lord's Prayer together:

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

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

The Speaker: Please be seated. Proceedings are resumed.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

The Speaker: I will now invite the Honourable Temporary First Official Member [responsible for the Portfolio of Internal and External Affairs] to come to the dais.

Oath of Allegiance

Donovan W. F. Ebanks

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

The Speaker: On behalf of this Honourable House I welcome you once again the Honourable Temporary First Official Member, and I invite you to take your seat at this time.

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

Apologies

The Speaker: I have received apologies from the Third Elected Member from the district of Bodden Town who is still off the Island with his wife for medical reasons.

I have also received a letter from the Parliamentary Opposition giving apologies -

“Dear Madam,

“This is to advise that as publicly stated and reiterated on the floor of the Legislative Assembly, the Members of the Parliamentary Opposition will not participate in the ongoing debate on the Constitutional Commissioners' Report and will not attend the current meeting while that debate is underway. Our colleague, Mr Anthony Eden, is off the Island and has already conveyed his apologies to you. We would be grateful if you would direct the Clerk to advise us when the debate on the Constitutional Commissioners' Report has concluded in order that we may participate in the Other Business of the House scheduled for this meeting.

Yours faithfully,
D. Kurt Tibbetts, JP
Edna Moyle, JP
Arden McLean
Alden McLaughlin”.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

Petition made by certain group employees of the Public Works Department regarding vacation pay and the change made to their workweek in 2001 from 44 hours to 40 hours

The Speaker: The Honourable Minister responsible for planning.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

As a result of a petition made by certain group employees of the Public Works Department (PWD) in regards to vacation pay and the change made to their work week in 2001 from 44 hours to 40 hours, I would like to make the following statement:

In 2002, the practice of advancing vacation salary to PWD Group Employees at the pay period just prior to their vacation was discontinued. This was done as part of the shift to the Integrated Resources Information System (commonly known as the IRIS accounting system) over the past two years, and it has resulted in significant increases in inefficiencies in the payroll unit within the PWD Accounts Division.

The new procedure ensures that employees' salaries are banked on a regular basis, similar to monthly employees, both while the employee is at work and also during vacation periods. And any authorised deductions and/or payments to financial institutions are made on time without disruption. When an employee's vacation salary is advanced all at one pay-period, financial institutions must be notified so that authorised deductions and payments may be made at that time. Or, there is the possibility that the deduction or payments due during the vacation period will not be made, and will therefore be late, after the employee returns from vacation.

PWD Management also sees the new procedure as one that assists group employees to better manage their finances. Under the old practice, at the pay period just prior to leaving, an employee going on four weeks vacation would receive six weeks pay at the pay period just before leaving, and the next pay period for that employee would be seven weeks later, three weeks after returning from vacation.

Madam Speaker, following objection to the new procedure from a number of Public Works Department employees in the form of a petition, the Ministry of Works and the Public Works Department Management have agreed to revert to the previous procedure of advancing vacation salary at the pay-period prior to vacation.

The changes in group employees workweeks from 44 hours to 40 hours was as a result of Personnel Circular #4 of 2000 issued in May 2000. This was to bring all group employees working hours in line with General Orders 19.10, which states: "**The normal**

working week shall be one of 40 hours. An employing officer may arrange hours of work in accordance with the need of the service".

All Government Departments have adjusted their group employee work weeks to conform with General Orders 19.10, with the Public Works Department being the last. Public Works completed their exercise in 2001. Public Works group employees were awarded 2 increments to compensate for the reduction in their work week.

Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Minister.

GOVERNMENT BUSINESS

Suspension of Standing Order 24(5)

The Speaker: It is my understanding that the Honourable Deputy Leader, Minister of Planning has a Motion to submit at this time.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

In accordance with the provisions of Standing Order 86, I seek to suspend Standing Order 24(5) to enable me to bring two Government Motions before the House, namely:

- (i) The Development and Planning (Amendment) (Height of Buildings) (No. 2) Regulations 2002; and
- (ii) The Building Code (Amendment) Regulations 2002.

Thank you, Madam Speaker.

The Speaker: I shall now put the question that Standing Order 24(5) be suspended to allow five clear days for the Government Motions to be submitted to this Honourable House. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. Accordingly Standing Order 24(5) is hereby suspended.

Agreed: Standing Order 24(5) suspended to allow five clear days for the Government Motions to be submitted to this Honourable House.

Amended Motion to Debate and Take Note of the Report of the Constitutional Modernisation Review Commissioners 2002

The Speaker: The Honourable Leader of Government Business and Minister for Tourism.

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

I beg to move the amended Motion, which reads as follows:- **“BE IT RESOLVED THAT this Honourable Legislative Assembly debates and takes note of the Report of the Constitutional Modernisation Review Commissioners 2002.”**

The Speaker: The Motion has been duly moved. The Motion is now open for debate. Does the Mover wish to speak thereto?

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

I beg to lay on the Table of this Honourable House the Position Paper of the United Democratic Party (UDP) on the Report of the Constitutional Modernisation Review Commissioners 2002, and Draft Constitution for the Cayman Islands.

The Speaker: So ordered. Please continue Honourable Leader.

Hon. W. McKeeva Bush: Thank you very much, Madam Speaker.

Having laid on the Table of this Honourable House the *Position* paper, I will now read that paper into the records of the Legislative Assembly.

The Speaker: Please proceed accordingly.

Hon. W. McKeeva Bush: Madam Speaker, as Members know, when the Report was laid on the Table of this Honourable House by the Chief Secretary in April, we then proceeded to hold public meetings in every district where we informed the public on the various points of the Review. And we also informed the public on what our position is. Certainly, at each of those meetings we listened to the views of the people in attendance.

As we went from district to district we revised our position according to what we were hearing from the people in the districts. We also met with various groups including the senior class from one of the schools. At those meetings it was clear to us what the people were saying about various issues.

In the district of Cayman Brac (where it was proposed to cut Cayman Brac in two) I can say that we had what I thought was a tremendous turn out in the Ashton Ruttly Centre. In fact, every single person in that meeting said, unreservedly, that they did not support the Constitutional Review on the suggestion for single Member constituencies. They did not support Cayman Brac being split in two. As I went from district to district that was the same message we received. As far back as 1986 or 1987 in the district of West Bay I had opposition to the same idea. The people did not support single Member constituencies.

It is worthy to note that the Opposition seems to have found the same problem in Cayman Brac. Ac-

ording to the news report they said that they would try to do something different for Cayman Brac and Little Cayman. So, if you support for instance, single Member constituencies, how then are you going to deal with Cayman Brac and Little Cayman? Except to either agree with them in not instituting it or going against their wishes and putting it in place. I thought I would say for the record that we have gone through every district and we have held meetings that have been well attended. We have received a tremendous amount of input from the public, not only at those meetings, but also through letters.

Pastors of certain churches have complained about the Bill of Rights. They want to safeguard the churches' position and of course, we agreed with them. We make reference to that and also put in a specific provision because we asked London whether that was possible. London agreed because that is the wording in the Bill of Rights Law. I quote; **“If a court's determination of any question arising under this section might affect the exercise by a religious organisation itself or its members of the constitutional right to freedom of thought, conscience and religion it must have regard to the importance of that right”**. That section safeguards the churches against any intrusion and I think this is good. So, we listened to other groups. I received a letter from a number of the private schools talking about the Bill of Rights and I believe that their concerns are addressed in our position.

I can say without fear of contradiction that each Member has done his best to go out, after the Commissioners had gone forward, to get our own feedback and discussion with the people of this country.

It is not a good thing to mislead anyone. It is certainly not a good thing to mislead the public on matters such as the Constitution. I repeat: 'this is not an *Independence* Constitution for people to be worried about, nor an *Independence* question where you could easily have a referendum and say, 'do you want independence, Yes or No?' That is an easy answer but I maintain that it is going to be a difficult thing to register six, ten or eighteen questions because who is to say that people do not want more than one point answered.

It is difficult to do that in a vote and the Commonwealth has been around not just today. The Commonwealth and the United Kingdom have been around for many, many years; much more than the great United States who was once a colony of Great Britain. This Westminster form of Government that has been adhered to throughout the Commonwealth for all these many years that has served us well; has not failed. As Sir Winston Churchill said, 'you might not like democracy the way we have it but it is still the best form of Government'. It is still the best system.

The system in the Commonwealth that all of us have grown up with; have known and has served us well has not been to our detriment. The only time

that there have been problems with the Westminster form of Government is when that system had been corrupted to something else. You can go through the Commonwealth and you can tell the countries which have had problems.

Referendum has been used very scarcely in the Commonwealth and it has been [used] for much greater issues than asking whether the Speaker should be from inside or outside the House. I repeat: if it were something asking for independence, which this is not by far. It does not even propose full internal self Government. We are not even going near it. What is being proposed is getting the Constitution to fit modern day Government; modern day expectations; modern day responsibilities; the challenges and the pressures that the Cayman Islands face so severely.

Madam Speaker, we have not done the public any wrong. It is very easy for people to get up and say *'I want to go and have my say'*. Well, the process is there and will be there for several more months for people to have their say. I want to say this in the strongest terms: the debate here in this legislature is not the final say. The United Democratic Party nor the People's Progressive Movement (PPM), nor anyone else, can write a Constitution for us. Nor can we vote for a Constitution to put it into effect. That is the prerogative of the United Kingdom. We have never been able to do that because the United Kingdom is the administering power for the Cayman Islands. We are an Overseas Territory; that is what we are—a Crown Colony, a Dependent Territory, now an Overseas Territory of the United Kingdom.

So, for people to make anyone believe that we can write our own Constitution and put that into effect is certainly doing a grave disservice not only to present day Cayman but also to our posterity.

Madam Speaker, we are not about keeping anyone from having his say. We did not—and I repeat this—we did not appoint any Commissioner. These Members on this side had nothing to do with it. Yesterday I said that because of the international responsibilities that the United Kingdom faces, their representative the previous Governor [Mr. Peter Smith], appointed the Commissioners. At all material times he said that the then Leader of Government Business, now the Leader of the People's Progressive Movement and still the First Elected Member for George Town who now chooses to boycott [the Constitutional debate] in this Honourable House, knew who was going to be appointed.

The Governor laid out the position clearly and we should not try to confuse that either. But as we have seen, they have attempted to do that if my Honourable colleague (the Deputy Leader) had not [received] the Position paper that was sent from the United Kingdom without any abridgement—in its raw form.

So, why is all of this happening? Why is this clamour now for delay? I said yesterday and I would like to repeat that without being too tedious: It is not

because of anyone on the outside. It is the Parliamentary Opposition who is utilising these efforts for their own aggrandisement; for their own situation to build their own party. I dare say, had they been the Leader of Government Business and been on Executive Council the process would have continued in this country without this furore. They would have been here debating it; they would have carried it through because they would have been in the position. Of course they do have people who support that position because they do not support us and they never will.

Madam Speaker, all of us have our short comings. There was only one perfect person who ever lived—the greatest, Jesus Christ the son of the Almighty God who was sent into this world! And they crucified him!

I do not listen often because I am just too busy. Perhaps, when I am in my car or if someone tells me what is being said on the media, the Internet or the radio station. But I have, in driving, listened to certain people tear down the Speaker. I do not understand where they are going. I have had my differences with Speakers and governors and I thought that the governors should have been out of this House and that was accomplished. I have had my differences with Speakers and certainly, the United Kingdom saw fit to agree that the Governor should no longer sit in the legislature because it is not democracy. It does not give the necessary separation of powers that a democratic country should have.

I cannot understand why people choose to go on the radio and say the things that they do and I cannot understand where is the responsibility of those in charge of the media allowing this to be pursued day after day. Is this what the Cayman Islands want? Is this the kind of confrontation; name-calling; accusation; the hype, the constant calling from morning until noon? Is this what we want? With all the problems that we have, can some of these people who are doing this do something more constructive?

Madam Speaker, I ask you to hold your head high because you have done and are doing one of the best jobs that I have seen done under the circumstances. I have seen you make decisions quickly: right decisions, thinking on your feet, which is needed in that Chair. You do it as quickly as you and the Clerk can confer at times, which is supposed to be done.

And I do not think that it is anything to do with referendum or anything about 'strangers'. An unfortunate situation, an unfortunate word and I understand how people can get upset about that sort of thing. But it is the correct word that was used. People say, *'throw it out'*. Well, when you go to Grand Court do you stop saying *'Ma Lord'*? Do you take off your wig and throw away your robe? Must all of the practices and conventions of the Honourable Court be thrown out too? This is Parliament and if we are striving to be better and perform better then we must follow the long standing traditions that have bode well for every country that has used them.

I, for one, am not going to shift to any presidential style of governance. I do not believe in it. I do not believe that the United States has the best system. I believe that the Commonwealth has bode us well for hundreds of years and Parliamentary democracy has bode us well for hundreds of years. I am not going to shift from that. Each to his own, but I prefer that and I think that there is no reason for all the things that I hear going on, on the radio.

I say again that while the media pipes up and prints about responsibilities and accountability, the media has one of the most important roles in the country . . . in any country; and that is to be fair; to be impartial and to print the truth especially when you have two sides—each side should be given fair opportunity and fair coverage.

I have had my problems with them, but I can live with them. There are many good articles and some very good journalists in this country. I have seen the Opposition accuse me of all sorts of things on the front page of the paper. I answer and it gets put somewhere else; it does not get the same treatment. The media have to be eternally vigilant. They should never let their likes and dislikes of who they support cloud the very and most important aspect in the country: that of reporting news—reporting what people say especially, because that can do eternal damage to an individual.

Government's own radio station . . . Is that the purpose of it? Do we need the moderator of any radio show, *'Oh, you going to the meeting tonight right?'*, *'Yeah'*, *'alright boss that is good'*, *'yeah it is going to be a good meeting'*. What are we doing? It is not both sides getting this treatment; it is all one side.

We cannot build a country on that type of situation. And if people believe that they are harming McKeeva Bush when they are one-sided they are making a big mistake. If they believe that they are harming the Speaker in her person, they are making a big mistake. They might cause us to be jeered at; to be booed; for people to have whatever opinion, but the damage is much bigger and much greater than that because these are some of the most important institutions in a country. When they go that low who does it hurt in the end? Our own beloved country. Here where we were born; where we work and live and move and have our being; where all of us, I believe, have an eternal love. Who are we hurting? Our own children, grandchildren and the future generations.

None of us is perfect, but do not tell me that we cannot improve step by step. Whether we like people or not; whether we like how someone talks; whether we like the pigmentation of their skin; whether we like the family they come from; whether they come out of Old Bush or Spot Bay or Watering Place or wherever; when we can all stop that, then we are moving little bit by little bit toward what we should be—decent human beings!

Madam Speaker, personally I take great umbrage to when a newspaper, or any news media, mentions my family. And if I ever 'see red' about anything and get my 'ire up', it is then! I have a decent family structure—my wife and I have tried to do our best. And I take this opportunity to say that, because people just go too far and the media goes too far when it allows this to happen. Why? Just to tear me down, personally? Why? Because I am here in this seat as Leader of Government Business? If I were in Opposition with the shoe on the other foot, perhaps you would not hear a thing about it. I take great umbrage—and from this forum I beg the media to be the institution it is supposed to be.

There is every reason to have outlets for people's expressions. But they must sit down and look at the fairness of what is happening. And those that are perpetuating this name-calling and accusations—allowing people who really do not have enough common sense to balance a straw, to get on the radio to 'educate'—that is what is happening, because when someone says something everyone else gets it and it is gone out—about people being paid off and making all sorts of accusations, do you know what the truth is? The truth is, that is all that is in their minds. But you know what the Bible says about that: **"As a man thinketh in his heart, so is he"**.

I have worked for myself from the time I was 13 years old, had to move out of a Government system, which was inadequate, did not have enough space. But I have constantly and honestly tried to live my life to what I think would please myself, my God, my people that I represent and my family. As I said yesterday, I challenge them to point to any one area that I have done the people of this country wrong. I challenge any of the Opposition to say what good they have done for the public of this country as against my records in this House and my record of administration. I am not saying that I did not make mistakes. But when I made mistakes and fell down, I got up and walked and tried. That is what people elected me to do. People knew; still know that I do not have a university education; that I did not go to Oxford, I did not go to any. But I will tell you this: I will match my own performance with some of theirs. Let us see.

But that is enough on that. I will end by saying that this is not what it is all about where Julianna O'Connor comes from or where McKeeva Bush comes from, or where Linford Pierson or Dr. Frank McField come from. No, that is not what it is about. It is about performance; it is about the good that has to be done for the people of the country and who can do it best, and who can get the job done. That is the task. That is the question.

Madam Speaker, I will rue the day that we have a situation in this country where only a certain few have the wherewithal—the ability to get elected to this legislature. Because we had it; we had the 'plutocracy' situation; we had the slaves, but not any more. That has been gone and thank God people of

common background that come from poor families have an opportunity to be the people's elected representatives and can stand and palaver with some of the highest in the land and in the world, for that matter.

Madam Speaker, if anything pains me in this whole situation is to see those kinds of situations arising again—hearing people saying, *'Where McKeeva come from'* or *'Where Julianna come from'*. I really thought that had all been put away in this country; that those kinds of prejudices had been forgotten about and that we have become Christian enough and good enough in our own heart of hearts, to accept people for what they can do and for what they mean to other people.

It is like this: if I see you doing something good for someone else, even though you might not like me, I am proud because a fellow Caymanian or a fellow human being is being lifted. Not to go back to the days where you had to go with your cap in hand bowing and begging. Is that what they want? Do they want people in here that only they can control? [People] that are controlled by a 'moneyed' few. My life and our lives are open books.

The Speaker: Is this a convenient time for the luncheon break Honourable Leader?

Hon. W. McKeeva Bush: Thank you very much, Madam Speaker. I think so.

The Speaker: At this time we will suspend until 2.15 pm.

Proceedings suspended at 12.46 pm

Proceedings resumed at 2.35 pm

The Speaker: Please be seated. Proceedings are resumed. Continuation of the debate by the Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

I propose now to read into the record the Position Paper I tabled earlier.

"Position paper of The United Democratic Party on The Report of the Constitutional Modernisation Review Commissioners 2002 and Draft Constitution for the Cayman Islands

"The undersigned Legislative Members of the United Democratic Party ("UDP") having reviewed and considered in detail the Report of the Constitutional Modernisation Review Commissioners 2002 and draft Constitution for the Cayman Islands dated March 7, 2002 (the 'Report and Draft Constitution'), and having made presentations in public meetings, met with a number of constitu-

ents and taken into consideration many views put forward by them, set out hereunder our considered joint position on the main changes proposed in the Report and Draft Constitution.

"1. Fundamental Rights and Freedoms of the Individual (Bill of Rights) (pages 10-24).

"We believe that every person in the Cayman Islands should have his fundamental rights and freedoms protected and it is most fitting that these fundamental rights and freedoms of the individual are enshrined in our Constitution. These fundamental rights and freedoms are:

- i. Protection of Right to Life
- ii. Protection from Inhuman Treatment
- iii. Protection from Slavery and Forced Labour
- iv. Protection of Right to Personal Liberty
- v. Provisions to secure Protection of Law
- vi. Protection of Right of Prisoners to Humane Treatment
- vii. Protection for Private and Family Life and the Privacy of Home and Other Property
- viii. Protection of the right to marry, etc.
- ix. Protection of Freedom of Conscience
- x. Protection of Freedom of Expression
- xi. Protection of Freedom of Assembly and Association
- xii. Protection of Freedom of Movement
- xiii. Protection from Discrimination on Grounds of Race, etc.
- xiv. Protection from Deprivation of Property.

"We wish to see a provision inserted in the 'Bill of Rights' which would draw attention to the unique social and cultural identity of the Cayman Islands and to ensure that this identity is not ignored when the Constitution is being interpreted by the Courts. We suggest that section 1 of Part I of the Constitution should begin:

"Whereas the Cayman Islands is a Caribbean territory with its own distinct history, culture, Christian values and socio-economic framework, every person in the Islands is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political or other opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:

- "a) life, liberty, security of the person and the protection of the law;**
- b) freedom of conscience, of expression and of assembly, movement and association; and**

- c) protection for his privacy and family life, the privacy of his home and property and from deprivation of property except in the public interest and on payment of fair compensation.

“We also recommend that the definition of ‘Islands’ contained in section 107 of the draft Constitution be amended to read ‘the Islands means the Cayman Islands as described in section 1 of Part I of the Constitution’, and that wherever the phrase ‘reasonably justifiable in a democratic society’ is used, that phrase should be amended to read ‘reasonably justifiable in the democratic society of the Islands’. We further recommend that the following provision on thought, conscience and religion become an integral part of this Section:

“‘If a Court’s determination of any question arising under this Section might affect the exercise by a religious organisation (itself or its members) of the Constitutional right to freedom of thought, conscience and religion, it must have regard to the importance of that right’.

“2. The Public Service Commission (PSC) be established in the Constitution (page 66- section 87).

“The Legislative Members of the UDP agree that the role of the PSC should be enshrined in the Constitution, but in conjunction with this and in line with ongoing modernisation in the civil service, we believe that the PSC should be freed from the day-to-day recruitment functions and become an Appellate Body.

“3. The posts of Acting Governor and Deputy Governor be held by a Caymanian (page 27- sections 20 & 21).

“We agree with this recommendation, but within the definition of ‘Caymanian’ proposed in section 14 by the undersigned.

“4. Establishment of an independent Advisory Committee in relation to the Governor’s power to pardon (page 30-section 26).

“We agree with this recommendation which reads in section 26 of the Draft Constitution:

“‘There shall be for the Islands an Advisory Committee on the Prerogative of Mercy (in this section and section 25 referred to as the Committee), which shall consist of the Attorney-General, the Chief Medical Officer and four other members of which two shall be appointed by the Governor after consultation with the Chief Minister

and two after consultation with the Leader of the Opposition’.

“5. Retention of the Westminster form of Government with increased local Autonomy but falling short of full internal self-government. A full ministerial style Government with a Chief Minister and Leader of Opposition (Chap. 3, page 6- para. 2) and (page 32-Part III).

“We agree with the Commissioners’ recommendation for a full ministerial style government with a Chief Minister appointed by the Governor on the recommendation of the majority of the elected members of the Legislative Assembly, and six Ministers appointed by the Governor, acting in accordance with the advice of the Chief Minister, from among the elected members of the Legislative Assembly. We also believe that in order for the full ministerial style government to work smoothly, provision should also be made for a Deputy Chief Minister and Deputy Leader of Opposition.

“6. A no confidence motion should be in respect of a lack of confidence in the Government as a whole, and not to remove individual ministers (page 33-section 32).

“We agree with this recommendation which reads in section 32 (1) of the Draft Constitution to the extent that:

“‘The Governor shall subject to the provisions of subsection (2) of this section revoke the appointment of the Chief Minister if a motion that the Legislative Assembly should declare a lack of confidence in the Government of the Islands receives the affirmative vote of not less than ten of the elected members thereof’.

“However, we recommend that where such declaration of a lack of confidence in the Government is affirmed by the Legislative Assembly, the Governor shall allow the members of the Legislative Assembly the opportunity to form a new Government prior to dissolving the Legislative Assembly and before calling a new General Election.

“7. The Financial Secretary and Chief Secretary positions be replaced with Elected ministers (Chap. 3, page 7 & page 32-section 31).

“We agree with this recommendation of the Constitutional Commissioners, subject to section 8 below.

“8. The Attorney-General shall be either an elected member of the Legislative Assembly entitled to practice as an Attorney-at-Law in the Islands in which case he shall be appointed by the Governor in accordance with the advice of the

Chief Minister or a public officer (page 69- section 92).

“We believe that since the Report and Draft Constitution envisage a move to a full ministerial system that the Attorney-General should also cease to be an ex-officio member of the Legislative Assembly and Executive Council. We propose there should be an elected Minister responsible for legal affairs, and a senior civil service post of Attorney-General which, where possible, should be filled by a Caymanian.

“9. The Speaker and Deputy Speaker be chosen from outside the membership of the Legislative Assembly (page 42-section 46).

“We do not support this recommendation and propose that we retain the provisions of the current Constitution which state that the elected members of the Assembly should elect -

“a) a Speaker from among the elected members of the Assembly, or persons qualified to be elected members of the Assembly, other than members of Executive Council;

“b) a Deputy Speaker from among the elected members of the Assembly other than members of Executive Council.

“10. The introduction of 17 single-member constituencies for the Islands (page 52-section 67).

“Although we support the concept of modernising this area of the electoral system, we believe that the full introduction of single-member constituencies and the ‘one man one vote’ which proposes to divide the Cayman Islands into 17 constituencies is, at this point in our development, premature. We believe that a better system would be to gradually phase in this concept.

“11. The introduction of an Electoral Boundary Commission to draw the electoral boundaries (page 52-section 68).

“We believe that it is important that a Boundary Commission is established as early as possible. This would be particularly necessary if there were a gradual phasing in of the single-member constituencies.

“12. The inclusion of a Judicial Service Commission to advise on the appointment of judges of the Grand Court as well as magistrates, registrars and other officers of the Court (page 65-section 85).

“We agree with this recommendation of the Constitutional Commissioners.

“13. Expansion of the Oath of Due Execution of Office to include the people of the Cayman Islands as well as to Her Majesty the Queen, Her Heirs and Successors (page 83-First Schedule).

“We agree with this recommendation of the Constitutional Commissioners.

“14. The Commissioners have given a narrow definition to ‘Caymanian’ in the Constitution which is separate and apart from ‘Caymanian Status’ (page 79-section 107).

The Commissioners have defined ‘Caymanian in Section 107 of the proposed Constitution to mean:- “A person who possesses British Overseas Territories Citizenship by virtue of a connection with the Islands and who:

- a) was born in or outside of the Islands and at the date of his birth had at least one of his parents or grandparents who was Caymanian as herein defined and who was domiciled in the Islands at the date of such birth, and
- b) possesses no other citizenship and is pursuing no claim to any other citizenship for which he may be eligible.

“There are 4 places in the proposed Constitution where it is necessary to be ‘Caymanian’ under the above narrow definition, namely:

- (i) to act as Governor
- (ii) to be Deputy Governor
- (iii) to be an elector, and
- (iv) to be a member of the Legislative Assembly.

“This definition excludes anyone holding dual citizenship. We believe this is an unreasonable departure from the provisions of the current Constitution which allows for dual nationality by virtue of birth outside the Islands.

“The Constitutional Commissioners’ proposals have unreasonably narrowed the qualifications for elected membership to the Legislative Assembly. Many able Caymanians will be precluded from running for office. We believe that the qualifications which are now contained in the current Constitution provide a reasonable balance where someone may stand for election if he (i) has Cayman Status and is 21 years or over, (ii) is domiciled and resident in Cayman, (iii) has British Overseas Territories Citizenship due to a connection with the Islands, (iv) has no other citizenship (except by reason of birth provided he has a Cayman born and Status holding parent or grandpar-

ent) and (v) meets the required residency period.

“We believe that an area of the present Constitution which requires further specific attention and amendment is the question of citizenship in light of the conferral of British Citizenship on British Overseas Territories Citizens under the new British Overseas Territories Act. Caymanian BOTCs are now entitled to full British Citizenship and passports with the right to live and work in the UK and European Community. We do not believe it is appropriate that someone who takes advantage of the new British Citizenship should be precluded from running for elected office.

“The narrow definition for a ‘Caymanian’ will also negatively affect electors. This will unnecessarily exacerbate the non-inclusive nature of the electoral system in the Cayman Islands and lead to an even smaller percentage of the long-term resident population of the Islands participating in the electoral process. We do not believe this is desirable. *We therefore recommend the following definition for a ‘Caymanian’ :-*

“A person who possesses British Overseas Territories Citizenship, British Citizenship, or citizenship by virtue of birth outside the Islands and who:

- (a) at the date of his birth had at least one of his parents or grandparents who was Caymanian as herein defined and who was domiciled in the Islands at the date of such birth, or
- (b) has Caymanian Status’.

15. *Inclusion of constitutional control on public debt (page 76-section 103).*

Under Section 103(3) of the Draft Constitution the Constitutional Commissioners have recommended that:

‘The Islands shall not (at any time after the appointed day) borrow money to a total amount larger than that which can be repaid as to both principal and interest (calculated from the date of draw down on the loan, whether or not a moratorium on repayment is given) by not more than ten percent of the Islands annual recurrent revenue (excluding money actually received from Loans) for the preceding financial year’.

“This provision is already contained in the Public Management and Finance Law and therefore we believe that a similar repetition in the Constitution is inappropriate and unnecessary.

16. *Provision for Referenda (page 45-section 50 (2)).*

“Provision to enable a referendum law to be enacted now exists under the current Constitution, but no such law has to date been enacted. The Constitutional Commissioners have also included this provision under the proposed new Constitution, but have added a proviso that the question of whether the Islands should seek an amendment to the Constitution that may result in the independence of the Islands shall be a matter of national importance.

“We agree with this recommendation of the Constitutional Commissioners”.

Madam Speaker, that is the total of the United Democratic Party’s position on the Report of the Constitutional Modernisation Review Commissioners’ 2002 and Draft Constitution for the Cayman Islands.

It was signed by all of us [the United Democratic Party Members] on 12 June 2002, and I name the signatories to this Position Paper.

- ◆ The Hon. W. McKeever Bush, OBE, JP, Leader of Government Business
- ◆ The Hon. Linford A. Pierson, OBE, JP, Deputy Leader of Government Business
- ◆ The Hon. Roy Bodden
- ◆ The Hon. Gilbert A. McLean
- ◆ Dr. the Hon. Frank S. McField
- ◆ Mr. Rolston M. Anglin, MLA
- ◆ Mr. Cline A. Glidden, Jr., MLA, Deputy Speaker of the House
- ◆ Capt. A. Eugene Ebanks, MLA
- ◆ Mr. Lyndon L. Martin, MLA

Madam Speaker, these are the total signatures on the United Democratic Party’s Position Paper.

I began by saying that this is a historic time for us. I also pointed out the many challenges we face. I talked about the current situation (the climate) that is being carried out and prolonged and I believe that we should bring closure as soon as possible to this debate on the Constitution. A Constitution is not something that should be hanging in the air for months and years in a current debate. I believe that to do that it would damage the country by causing confrontation and more friction.

I believe that we should all try to work together although the Opposition is absent. They should endeavour to come to this House and put their position on this review of the Constitution. This is their duty, whether they had a chance or not to debate a referendum—the Leader of the PPM debated it in any event. And they have stated their reason for that, but that is confusing also. They should come to the Legislative Assembly—as they are paid to do—to debate

the Constitution. But if they are not here Parliament duties must continue. We must do our work. We have no authority to amend the Constitutional Commissioners' Report. We have to put our position. And as I said before, the Government has given an undertaking to send it to London with the debate and with the results coming from, and recorded by, the Electoral office. We will ask for a delegation to London.

Now, just to show how contrary and opposite the Opposition wants to be: I believe that it is a given that the United Kingdom will accept our request to have Members of Government and Members of the Opposition around a table talking to them at the Foreign Office, where they have not one or two but several Officers and their legal advisers to call on. But the Leader of the Opposition had said No. He wants them to come here. Why be that opposite? Why not say, *'that is a good idea; that gives us a chance'*. They have a lawyer on their team. Why say that they must come here? Going to London and talking to them—they will have their officers, they will have one, two or three people there to call on. They will have all of their legal advisers and they could be prepared for any matter that may arise and could be answered there and then.

Well, the Opposition is the opposition and it seems that it is their duty is to oppose—first, second and third duty also. But the Government must govern according to our Constitution and according to what we believe are the wishes of our people. And that is what the United Democratic Party Government is doing.

Madam Speaker, I will stop at this point. I do thank you.

The Speaker: Thank you Honourable Leader. Does any other Member wish to speak? Is it the wish of the House that we take the adjournment at this time? The Honourable Leader of Government Business.

ADJOURNMENT

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

It seems that it is a general agreement that we adjourn the House at this point, that is, that some Members have some pressing engagements and that is the preferred route. So, I move the adjournment of this Honourable House until Monday, 24 June 2002, 10 am.

The Speaker: The question is that the Honourable House be now adjourned until Monday, 24 June 2002, 10 am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. The House stands adjourned until 10 am Monday 24 June 2002.

At 3.07 pm the House adjourned until 10 am, Monday, 24 June 2002.

OFFICIAL HANSARD REPORT
MONDAY
24 JUNE 2002
10.48 AM
Sixth Sitting

The Speaker: I will now call on the Honourable Second Official Member [responsible for the Portfolio of Legal Administration] to grace us with prayers.

PRAYERS

Hon. David F. Ballantyne: Let us pray.

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

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

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

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

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

Proceedings resumed at 10.50 am

The Speaker: Please be seated. Proceedings are resumed.

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

Apologies

The Speaker: I have received apologies from the Third Elected Member from the district of Bodden

Town, who is still off the Island with his wife for medical reasons. I have also received apologies for the late attendance of the Honourable Third Official Member this morning.

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

The Speaker: I have received no notice of statements for this morning's sitting.

GOVERNMENT BUSINESS

**Amended Motion to Debate and Take Note of the
Report of the Constitutional Modernisation Review
Commissioners 2002**

(Continuation of debate thereon)

The Speaker: Does any other Member wish to speak? The Honourable Deputy Leader of Government Business.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

Before getting into the text of my debate I want to make a quick reference to today's paper, the *Caymanian Compass*, in the Editorial section entitled "Rules of the House," and just to say that it is refreshing indeed to see such a positive statement being made in acknowledgement of what the Government and this Honourable House are doing to bring the debate on the Constitutional Commissioners' Report to everyone that we possibly can reach.

In this connection it also offers me the opportunity to briefly draw the attention of those individuals who have received the licence, whether it is a TV licence or radio licence, that they have certain procedures and guidelines that they should follow. As the Minister with responsibility for this subject, I think it is timely and opportune that I should do this at this point with your permission.

The Speaker: Please proceed.

Hon. Linford A. Pierson: I would like to draw attention to section 12 of the Broadcasting Law (1997 Revision) captioned "Duties of Licensees" to all of the licensees under the Broadcasting Law. This Law has now been subsumed in the Information and Communications Technology Authority Law (ICTA) that was recently passed in this House. It reads: "**It is the duty**

of a licensee to ensure that the programmes broadcast by him—

- a) **include nothing which offends against good taste or decency, is likely to encourage or incite to crime or lead to disorder or to be offensive to public feelings or which contains any offensive representation of or reference to a living person;**
- b) **maintain a proper balance in their subject matter and a high general standard of quality;**
- c) **present with due accuracy and impartiality any news given therein;**
- d) **include no discussions or debates where persons taking part express opinions or put forward arguments of a political character which are not properly balanced by other opinions; and**
- e) **comply with this Law and the regulations”.**

Madam Speaker, I would like to make the point that this is not a regulation or law that has recently been passed by the UDP. This Law, in fact, existed for a very long time and was recently revised in 1997. So, this has been on the books for a very long time and I hope that I do not later hear that I am warning the media or in any way threatening them. I am just drawing this section of the Law to the attention of the general public, including the media.

During my career as a civil servant, the years spent in the private sector and also my years as a representative of the people, I have always held that integrity and honour are the two most important elements in one's life. Thus the reason I have always used as my personal motto, integrity and honour in all things comes before all else.

During my 16 years in the Civil Service I reached the positions of Deputy Financial Secretary and of a Permanent Secretary. And, God willing, at the end of my present term in office in 2004, I will have served my people for a further 16 years. During this period of public service never once have I used my position to unfairly promote my civil service or political career. This level of honour and integrity was also the hallmark of my private sector career. In short, I have always endeavoured to provide my people and my country with the best and most honest service that I could possibly give. That is the legacy by which I wish to be remembered.

Madam Speaker, I have always demonstrated in my daily life that I am a man of honour and integrity. Specifically was this evident when in 1992 I declined to walk out of Government on my Executive Council colleagues in the interest of political expediency, though at the time I strongly disagreed with a particular issue being dealt with by that Government. I therefore feel that it is most unfortunate when the peace, tranquillity, stability and good order of these beautiful Islands we all call home, should be disrupted by a group of individuals whose only aim appears to be the satisfaction of their own political agenda.

I am most concerned that the First Elected Member for George Town, together with his Opposition colleagues, would subject these Islands to a state of instability for selfish political reasons. It seems that the argument being propounded by the Opposition is that their refusal to comply with the Standing Orders and Constitution is because you, Madam Speaker, are being unfair to them.

As explained by me in a public statement made on Tuesday, 11 June 2002, you, Madam Speaker, bent backwards to accommodate the Opposition's motion for a referendum. Not only did you point out to them that their motion was defective, you also explained to them what needed to be done to correct their motion.

Around the same time, you similarly had to refuse a motion from two Members of the Government Bench, which you also found to be defective. However, in contrast to the action taken by the First Elected Member for George Town, the two Members of the Government Back Bench graciously accepted your ruling and amended their motion in accordance with proper parliamentary procedures.

What a contrast from the high-handed and arrogant attitude taken by the First Elected Member for George Town and his Opposition colleagues—who decided that instead of complying with proper parliamentary procedures they would hold a press conference during which time they completely misled the people of these Islands on the truth in this matter.

To add insult to injury, the First and Second Elected Members for George Town made some very derogatory remarks about you as Speaker which led you to cite them in contempt of this Honourable House, as well as to call upon them to make an unconditional apology for their disrespect to the Chair of Speaker.

Madam Speaker, upon their refusal to retract their statements and to unconditionally apologise to this House, you quite correctly suspended them from this House in accordance with the provision of our Standing Orders. You, Madam Speaker, are to be congratulated for the fair and professional manner in which you handled that matter.

The Opposition also had ample time to reconsider their position in regard to the referendum motion, but refused to do so. It was quite clear that to have done so would not have suited their political agenda of upsetting and inflaming the emotions of our people.

The question that remains to be asked is whether the First and Second Elected Members for George Town and their Opposition colleagues seriously wanted to have a referendum motion amended and debated in this Honourable House, or whether they intentionally misled the public in believing that you had refused to accept a properly constructed motion which complied in all respects with our parliamentary procedure.

It is against this background that I have reached the conclusion that the First Elected Member

for George Town and his Opposition colleagues had no intention of having this referendum motion debated in this Honourable House, but rather used the opportunity to score political points and to build the image and membership of the People's Progressive Movement, regardless of the damage that this has caused to the economic social and political stability of these Islands. This behaviour equates to selfishness and arrogance at its worst.

Further, when the House reconvened at 10 am on 19 June, the Government adjourned the House until 3.30 pm of the same day to allow the First and Second Elected Members for George Town and their Opposition colleagues an opportunity to be present to debate the Constitutional Commissioners' Report, because the First and Second Elected Members for George Town had been suspended until 3.20 pm that afternoon.

The *Hansard* [reports] of this Honourable House will show that following what can only be described as a misleading and tediously repetitious debate from the First Elected Member of George Town, he gave notice that the Opposition would not remain for any further debate on the Report of the Constitutional Commissioners. Again, one has to ask whether those Opposition Members really have the interest of the residents of these Islands at heart, or whether their main interest is building up their own political interests.

What makes me angry, Madam Speaker, is the wilful and calculated attempt by the Opposition to mislead so many innocent and hard working residents of these Islands into believing that their right to bring a referendum motion was being denied. I wonder whether the instigator of this misinformation was the same person who during the 2000 General Elections kept saying at his public meetings, and I quote, "It is truth time Cayman". Either the First Elected Member for George Town has a reckless regard for the truth or really did not understand the meaning of the slogan, "It is truth time Cayman."

I feel it is important that all our people should see the Opposition for what they really are. I have the highest regard for those individuals who have been misled by the Opposition, but I feel that it will not be long before our people find out that they were misled by the First Elected Member for George Town and his Opposition colleagues.

I know that it is unparliamentary to call them a bunch of liars, and I will not say that in this Honourable House, and I am still trying to find the proper synonym to describe this group. Not only have they attempted—and in many cases succeeded—in misleading our people, but they are now also attempting to influence our civil servants and others in high places.

Madam Speaker, I believe that it is generally felt that the political vendetta of the First Elected Member for George Town and his colleagues began in earnest on 8 November 2001, which was the day

when he was removed as the Leader of Government Business because of his ineptitude as the then Leader of Government Business.

The First Elected Member for George Town, notwithstanding his popularity within the Islands . . . because I have to tell you that I envy him for his cooking abilities . . . but I was not brought into this House to cook; I was brought here to represent the people. I have to say that it was a lack of his leadership ability that led to his removal as Leader of Government Business.

Madam Speaker, that Honourable Member had a golden opportunity to have provided sound leadership within these Islands, but he blew that opportunity. As a territory founded on Christian principles, it is also totally unacceptable to give the appearance that the Government of these Islands is run from a barroom. Why is the First Elected Member for George Town and his colleagues so bent on regaining power? And in the process, destabilising the economic, social and political framework of these Islands? When given the opportunity in the year 2000 he was incapable of providing proper leadership.

Again, in reference to the referendum, it is quite obvious that the Opposition's role in this matter is the satisfaction of their own political agenda to the detriment of the peace, harmony and stability of the beautiful Cayman Islands. Therefore, Madam Speaker, I call on them to put the interest of our people first and their own personal political ambitions second.

Madam Speaker, I wish to now comment briefly on the Constitutional Modernisation Checklist, which the First Elected Member for George Town in his debate on Thursday, 20 June, commented on at length. In particular, section 18 of the GIS (Government Information Service) which is the equivalent of section 2.19 of the original Checklist from the Foreign and Commonwealth Office dated October 1999.

Even the very simple comments that I made in this Honourable House in regard to the Checklist, were this morning on the Cayman Islands Television Network (CITN) breakfast show distorted by the Second Elected Member for George Town. I can only say to the Second Elected Member for George Town that if he does not fully understand the workings of our Parliament at this point in time, he should give himself a little time. He is still green and wet behind the ears, so he needs time even though he feels that he knows everything about everything. When I was growing up in East End, the old people would refer to him as a 'fop'.

Madam Speaker, the Checklist that I refer to . . . I do not mislead anyone in this House. What I was reading from in this House was the original Checklist from the Foreign and Commonwealth Office received in October 1999. And for him to go on the television show and suggest that I was lying because what he had read in [section] 18 did not compare with [section] 2.19 is, again, misleading the public.

What I did say—and the *Hansard* will show—is that it was a different version but that section 18 was similar or the exact version of section 2.19, and that they had failed to read a most important section which was 1.3 on page 1 of the original Checklist. I repeat that: I find it somewhat surprising that the Second Elected Member for George Town would not have had a copy of this when in fact his Leader—the Leader of the People's Progressive Movement (PPM)—was then the Leader of Government Business. So, if he was not privy to this then, he has to talk to his Leader because his Leader got a copy of this Checklist the same time that I did.

What I read a while ago about equal time—I will have my equal time on CITN tomorrow morning. So, I would like that Honourable Member to listen to what I have to say and perhaps he will learn something. No longer am I going to sit in this Honourable House and allow people like the Second Elected Member for George Town, who is just a young and hurry-come-up politician still wet behind the ears, mislead the public on issues that I deal with in this House. My record speaks for itself. My contributions to these Islands speak for themselves. And when he has contributed as much to these Islands as I have, then he can start being critical of me.

Madam Speaker, before commenting on section 18, which, as I said, is the equivalent of section 2.19 of the original Checklist, I wish to once again say that I find it most incredible that the First Elected Member for George Town would not have used the copy of the original Checklist received from the Foreign and Commonwealth Office, when this should have been available to him. And I repeat: he was the Leader of Government Business when this Checklist was received from the Foreign and Commonwealth Office.

Further, it seems rather convenient that he would have omitted to refer to section 1.3 of the original Checklist which very clearly explains that the Checklist had been drawn up by the Foreign and Commonwealth Office to give an indication of the standards, which the Overseas Territories should seek to achieve.

It further states that the Overseas Territories Governments were asked to consider the Checklist when making proposals for Constitutional change, and either to incorporate suitable measures in their proposals to meet the requirements of the list or explain why a particular requirement should not apply to their territory. Madam Speaker, I submit that the Honourable First Elected Member for George Town was given this paper at the same time that I was given the paper as a Member of Executive Council. So, there is no excuse why he did not read from the original paper notwithstanding the abridged format that was published by the GIS.

To make abundantly clear what section 1.3 of the Constitutional Modernisation Checklist states in its entirety, I will read this short paragraph: **“In order to**

help OT Governments to review their Constitutions and to see if any changes are needed a checklist has been drawn up which gives an indication of the standards which OTs should seek to achieve, the obligations which they should strive to meet and the expectations of HMG in key areas of constitutional modernisation.”

It went on to say, **“OT Governments are asked to consider the checklist when making proposals for constitutional change and either to incorporate suitable measures in their proposals to meet the requirements of the list or explain why a particular requirement should not apply to their territory.”**

That statement shows a lot of flexibility in the thinking of the Foreign and Commonwealth Office. And further, the Checklist is not a law; it was a guide given to us, an indication for guidelines as to what we should follow.

In my opinion, the Checklist has been compiled with by the United Democratic Party as is evident in the Position Paper which was laid on the Table of this Honourable House by the Leader of Government Business last Friday – 21 June.

It is the view of the United Democratic Party that this Position Paper fully reflects the comments and views, both written and verbal, of a very wide cross-section of our Islands' community, and thus, complies with the Foreign and Commonwealth Office Constitutional Modernisation Checklist.

I now wish to comment specifically on section 18 of the Checklist referred to by the First Elected Member for George Town, which, as I stated, is the equivalent of paragraph 2.19 of the original Checklist received from the Foreign and Commonwealth Office in October 1999.

The first question in this section of the Checklist is, **“Do the changes suggested by the OT government have the support of the majority of the population?”**

Madam Speaker, I submit that from the Report of the Constitutional Commissioners, who took some nine months to conduct their review, and from the feedback obtained by the Legislative and other Members of the United Democratic Party from the meetings we held in each district in Grand Cayman and in Cayman Brac, it can reasonably be concluded that we obtained a representative sample of the views of the majority of the population. These views were obtained under very calm and stable political conditions and nobody was rushed or pushed into expressing them.

They were not subjected to a charged and emotionally influenced atmosphere to which the Opposition has subjected some of our people and during which the group calling themselves 'People for Referendum' chose to circulate their petition. Madam Speaker, that contrast should be noted. Accordingly, it stands to reason that any referendum or petition encouraged and supported by the Opposition in such a

politically charged atmosphere cannot pass the test of impartiality and would most certainly compromise the integrity of such an exercise. It therefore follows and stands to reason that such a petition calling for a referendum can only serve to reflect the political aspirations and wishes of the Opposition and not what is in the best interest of the people of the Cayman Islands.

The second question in paragraph 2.19 of the Checklist is: **“What is the evidence for such support?”** Madam Speaker, as stated earlier, the Constitutional Commissioners gave the public every opportunity to have their views made known as did the United Democratic Party—not only at public meetings but also at private forums. The Constitutional Commissioners have stated quite clearly in their Report that they are satisfied that they obtained a representative sample of the population of our Islands.

Similarly, the United Democratic Party is satisfied—through our public meetings, as well as public pronouncement through the media—that we too obtained a representative sample of the majority of the population, which is reflected in the Position Paper tabled in this Honourable House by the Leader of Government Business.

It seems somewhat ludicrous and politically self-serving that the Opposition Party, the People's Progressive Movement they call themselves, can reasonably conclude that the approximately 7,000 signatures (I understand that when this is truly authenticated it might be 50 per cent or perhaps a little more of this figure, but certainly not the 7,000) represent a definitive indication of the views of our population. Our population consisted at the last census of near 40,000 people. Seven thousand—and if the figure is authenticated, say even 60 percent of that . . . say 4,200, cannot by any stretch of the imagination represent a majority of the population of these Islands.

Further, it is totally unfair that the petitioners are still being allowed to collect signatures to add to their petition. That should have stopped the day that they handed in their petition to the Government. When are they going to put a halt to the collection of all these signatures? I repeat: this process should have ended when the petition was submitted to Government on Tuesday, 18 June 2002.

I also feel that it is grossly unfair to the whole petition process that individuals other than registered voters should have been asked to petition the Government on an issue which they would not be able to vote in a referendum. It seems to be totally irresponsible that the Opposition would encourage other groups, such as The People for Referendum, to obtain the signature of everyone they could find regardless of the tenure of those people in these Islands.

It is my considered opinion that the process undertaken by the People's Progressive Movement and the People for Referendum does not reflect the majority support for a referendum on the six questions raised by the Opposition. More importantly, it is my considered opinion that not one of the questions

raised in the Opposition's referendum Motion can qualify as a matter of national importance. Madam Speaker, I will repeat that. It is my considered opinion that not one of the questions raised in the Opposition's referendum Motion can qualify as a matter of national importance. There lies the crux of the whole matter. This is what the referendum motion is all about.

The third question in paragraph 2.19 of the Checklist equates to the section 18 referred to by the First Elected Member for George Town. It reads: **“Has there been extensive local consultation. . . ?”** I believe that even the Opposition would agree that there has “been extensive local consultation with or without the assistance of a Constitutional Commissioner or Commission.”

In the fourth and last question in section 2.19 the FCO questions whether the consultative process has been **“followed by a debate in the legislature in which the suggested changes have been approved by motion.”** The *Hansards* [reports] of this Honourable House will show that there has been extensive debate on the suggested changes including the tabling of the Position Paper of the United Democratic Party on these changes. All that now remains to be done in this regard is for this Position Paper, which includes the suggested changes, to be approved by a motion, which I feel will be done before we move from this item on the Order Paper.

If time permits, it is my intention also to expand on various recommendations contained in the Position Paper of the United Democratic Party, which, as stated, was laid on the Table of this Honourable House on Friday, 21 June 2002. However, before so doing I wish to refer to page 45 section 50 (2) of the Draft Constitution proposed by the Constitutional Modernisation Review Commissioners 2002. This section states: **“. . . a law may make provision to enable the holding of a referendum amongst persons qualified as electors in elections to the Assembly on a question declared by resolution, adopted by a majority of the Elected Members of the Assembly, to be a matter of national importance provided that the question of whether the Islands should seek any amendment to this Constitution that may result in their independence shall be deemed to be a matter of national importance.”**

An important issue to examine is whether or not the six points raised in the referendum motion that were being proposed by the Opposition comply with the criteria of being matters of national importance. This, as I stated earlier, is the crux of the whole matter. Are these issues, indeed, matters of national importance? Let me once again state that the proviso made by the Constitutional Commissioners is that the independence of these Islands would be an example of a matter of national importance.

I can think of other examples, such as the \$60 million, which the former Leader of Government Busi-

ness—the First Elected Member for George Town—incurred on behalf of Cayman Airways during his short tenure as the Minister with responsibility for Cayman Airways; and, indeed, the \$55-plus million of debt which he incurred on behalf of Government to balance Government's recurrent and capital budgets. They are matters of national importance!

It is this type of poor leadership direction that caused the Foreign and Commonwealth Office to send their economist down to the Cayman Islands to check on the fiscal affairs of these Islands. And I would point out that this action by Her Majesty's Government was unprecedented in the history of the Cayman Islands.

These issues are further examples of matters of national importance that could properly have been made the subject of a referendum motion, as provision is currently made in our present Constitution for calling for a referendum when and if required. Why, then, did not the First Elected Member for George Town call for a referendum on these most important issues of national importance during his tenure as the Leader of Government Business? Surely, the foregoing issues would have to rank much higher in prominence than the six questionable issues the First Elected Member for George Town is now suggesting should be considered as matters of national importance. During my debate I propose to show that the whole question of a referendum based on the six questions contained in the referendum motion is flawed in that those questions do not satisfy the criteria for an issue of national importance, particularly when this criteria is based on the example given by the Constitutional Commissioners, namely: the Independence of the Islands. Therefore, it will follow that calling for a referendum on these six issues is similarly flawed as it is likewise based on the flawed premise that these issues constitute matters of national importance.

The First Elected Member for George Town (who was shown as the mover of the referendum motion) failed to properly advise the public that the motion was deficient in this respect. Even if the Leader of the Opposition was unaware of this, certainly his legal and constitutional advisers within the Opposition group should have advised him correctly on this point.

Madam Speaker, I wish to deal with the six issues in the numerical sequence in which they appear in the referendum motion the First Elected Member for George Town and the Elected Member for North Side sought to have approved by you, Madam Speaker: **“Can it truly be said that the questions regarding the concept of ‘one man, one vote’ and the creation of 17 single member constituencies is a matter of national importance? When, in fact, the present system has worked so well over the past years as is evidenced in the socio-economic and political development of these Islands, compared with those Islands that have adopted the concept of single member constituencies?”**

Madam Speaker, let me read that over so that I can clarify that particular point I am questioning myself: **“Can it truly be said that the questions regarding the concept of ‘one man, one vote’ and the creation of 17 single member constituencies is a matter of National importance? When, in fact, the present system has worked so well over the past years as is evidenced in the socio-economic and political development of these Islands, compared with those Islands that have adopted the concept of single member constituencies?”** I think the answer to that question would have to be in the negative.

The Mover and Second of the motion have not provided any justification as to why the single member constituency should be rushed into rather than being phased over a period of a few years as recommended by the United Democratic Party. If time permits, I intend to go into more detail to support that position.

The question that arises is whether this concept is being promulgated by the Opposition Members out of their own personal interests. Could it be that they feel that such a system might enhance their chances of success in the 2004 General Elections? If this is indeed their motive, could this then be properly regarded as a matter of national importance, or one that will satisfy their personal political agenda?

The second question, Madam Speaker: **“2. Should the Speaker of the Legislative Assembly be chosen from outside the elected membership of the Legislative Assembly?”** Similarly, this cannot, by any stretch of the imagination, be regarded as a matter of national importance. The Opposition has proffered no justification to suggest that such a matter would be a matter of national importance.

On the other hand, the UDP has shown in a wise and level-headed manner that provision should be made in the Constitution for the Speaker of the House to be chosen from within the Elected Members of the House (with the exception of Members of the Executive Council), or from outside the House. This provides the flexibility for the Office of Speaker to be filled by the most qualified and experienced person that can be found within the Cayman Islands, whether from inside or outside the House.

Anyone who has had the opportunity and privilege to listen to your rulings, and see the manner in which you have conducted the affairs of this Honourable House since you took that Chair, would have no doubt that the selection of you, Madam Speaker, was indeed a very wise decision. As with the case of question 1, this cannot reasonably be regarded as a matter of national importance.

Question 3 of the six questions states: **“Should the proposed changes to the Cayman Islands Constitution be implemented between the dissolution of the current Legislative Assembly and the next General Election in 2004, as is pro-**

posed in the Report, or should the proposed changes be made as soon as possible?”

It is my view that there is no good reason why the Constitution should not be brought into effect as soon as it has been approved by Her Majesty's Government.

Without wishing to get embroiled in the speculation as to why the Opposition is raising this question (and this was also raised by the Constitutional Commissioners) I can only assume that it must be because they would not wish to see any Member of the current administration (and in particular the Honourable Leader of Government Business) become the first Chief Minister of these Islands—notwithstanding that that Honourable Minister has demonstrated far superior leadership abilities than his predecessor in office.

Could it be that the People's Progressive Movement is a right-wing political group, as was publicly stated by one of their Members at a meeting held by them on the steps of the Courts Office in George Town? The Third Elected Member for Bodden Town stated at that time that he was proud to be a right-winger. Some of the persons in history who publicly stated their position as right-wingers and being part of a right-wing movement were people like David Duke, Hitler, Mussolini, LePen, Melosivich: they are the type of people that we put in that category.

An honourable Member: Racists!

Hon. Linford A. Pierson: But, knowing that Honourable Member as I believe I do, I would prefer to take the view that the Third Elected Member for Bodden Town does not fully understand the philosophy and ideologies of a political right wing individual or group. If I am wrong, and he *does* understand what this means, then it would certainly clarify why some of the Opposition, and many members of the public who think like them, would not wish to see Caymanians such as the Honourable Leader of Government Business, myself and some other Elected Members of Executive Council fill the positions that we now fill in Government merely because we do not fit a certain profile and therefore would not be accepted by a right wing movement.

Madam Speaker, if we took a profile of each Member of the Opposition and compared that with the Elected Members of this Government and their Back Bench supporters, I think it could very quickly and easily be seen that the Elected Members of Government and their Back Bench supporters, individually and as a group, are better qualified to run this country than any of the Members of the Opposition.

The Speaker: Honourable Deputy Leader, is this a convenient time for the morning break?

Hon. Linford A. Pierson: Thank you, Madam Speaker.

Proceedings suspended at 11.50 am

Proceedings resumed at 12.23 pm

The Speaker: The Honourable Deputy Leader continuing his debate.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

When we took the break I was making reference to a remark that had been made by the Third Elected Member for Bodden Town at a public meeting in George Town, when he said he was proud to be a right winger. I did, in fact, graciously give him the benefit of the doubt that he could not have understood the meaning of that phrase; otherwise I hoped that he would not be associating himself with such a group.

Madam Speaker, before I continue I wish to state that the contents of the referendum motion which I referred to—the Private Members' Motion with the six points—is not yet a document of this Honourable House even though it was publicised by the movers of the motion. And it is now public knowledge. So, for the sake of the debate I wanted to have that injected in the *Hansard*.

Picking up where I left off: one has to question what would be the motive of either the Opposition or indeed others for not wanting to have the present government in power when the new Constitution is brought into effect. I hope that I am totally wrong in my assessment of this situation because this is one instance when I would like to be found wrong, especially in the interest of the peace, tranquillity and sustained development of these Islands.

Number four of the six questions contained in the Opposition's referendum motion asked the question: **“Should the Cayman Islands' Constitution contain provisions to permit the electorate to initiate a referendum?”** We are blessed in the Cayman Islands. As a British Overseas Territory, we have been practising the Westminster style of a democratic government since 1831 (I think), and ever since we have had representative government. Under this system the elected representatives represent the electorate. Accordingly, the electorate has always had a direct link, an available contact with their representatives. The logical extension is that there is already a provision to permit the electorate to initiate a referendum through their representatives. In this connection there would therefore seem no need to alter this well-established Westminster system of government which has worked well within these Islands.

Again, this question cannot reasonably be regarded as a matter of national importance.

Number five of the six questions is: **“Should term limits be placed on the holder of the office of Chief Minister?”**

I would say definitely not as this could prevent individuals who are best qualified for the position from filling this most important office. I would advise all

those who advocate such a change to understand that our system of government is not the same as that which obtains in the United States of America, where term limits are placed on the office of the President of the United States. Again, in my opinion, this cannot be regarded as a matter of national importance.

The last of the six questions the referendum motion suggests are matters of national importance, states: **“Should a person who holds a nationality in addition to British Overseas Territory Citizenship by virtue of a connection to the Cayman Islands and British Citizenship be permitted to be elected as a Member of the Legislative Assembly?”**

This, too, cannot be regarded as a matter of national importance within the criteria suggested in the Constitutional Commissioners’ Report. As stated in the Position Paper of the United Democratic Party, we regard the definition provided by the Commissioners under section 107 of their proposed Constitution as being much too narrow as their definition would preclude many able Caymanians from running for Office.

I further believe that the definition recommended by the United Democratic Party in their Position Paper is a much more inclusive, just, and equitable position, whereby those who would be eligible as Members of the Legislative Assembly, as well as electors, are being recommended.

The United Democratic Party’s definition is, and I quote: **“A person who possesses British Overseas Territories Citizenship, British Citizenship or citizenship by virtue of birth outside the Cayman Islands and who;**

“a) at the date of his birth had at least one of his parents or grandparents who was Caymanian as herein defined and who was domiciled in the Islands at the date of such birth, or

“b) has Caymanian Status”.

We feel that this is a much more inclusive definition of ‘Caymanian’.

Madam Speaker, having covered these most important issues stated earlier, it is my intention to now turn to the following recommendations of the Constitutional Commissioners, which the UDP found to be the most controversial during our various district meetings. The four issues include:

1. Fundamental rights and freedom of the individuals. (The Bill of Rights, pages 10-24 of the Commissioners’ Draft Constitution).
2. Introduction of single member constituencies (page 52, section 67).
3. The narrow definition of Caymanian (page 79, section 107).
4. Provision for referenda (page 45, section 50(2)).

The United Democratic Party supports the recommendation of the inclusion of the Fundamental Rights and Freedoms of the individual, also known as the Bill of Rights.

On the question of Human Rights, the White Paper stated: **“The record of many Overseas Territories is positive but further work would be needed to ensure compatibility with the commitments which Britain has made on their behalf.”**

It is my opinion—shared also by my colleagues—that perhaps one of the most important recommended changes to the Constitution is the inclusion of the Bill of Rights. Every person in the Islands should have his fundamental rights and freedoms protected, and it is most fitting that these fundamental rights and freedoms of the individual are enshrined in our Constitution.

Madam Speaker, to emphasise the point that has already been made by the Leader of Government Business, permit me to just refer again to these most important fundamental rights and freedoms. They are:

1. Protection of right to life.
2. Protection from inhuman treatment.
3. Protection from slavery and forced labour.
4. Protection of right to personal liberty.
5. Provisions to secure protection of law.
6. Protection of right of prisoners to humane treatment.
7. Protection for private and family life and the privacy of home and other property.
8. Protection of the right to marry etc.
9. Protection of freedom of conscience.
10. Protection of freedom of expression.
11. Protection of freedom of assembly and association.
12. Protection of freedom of movement.
13. Protection from discrimination on grounds of race, etc.
14. Protection from deprivation of property.

While it is appreciated that these fundamental Rights and freedoms of the individual will bring the Cayman Islands in line with the international obligations of the UK, we, the Members of the UDP, would nonetheless wish to see a provision inserted in the Bill of Rights that would draw attention to the unique social and cultural identity of the Cayman Islands, and to ensure that this identity is not ignored when the Constitution is being interpreted by the courts—with the suggested change in section 1 of part I of the Constitution, which would read: “Whereas the Cayman Islands is a Caribbean country with its own distinct history, culture, Christian values and socio-economic framework. Every person in the Islands is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political or other opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:

- a) Life, liberty, security of the person and the protection of the Law;
- b) Freedom of conscience, of expression and of assembly movement and association; and

- c) Protection for his privacy and family life, the privacy of his home and other property and from deprivation of property except in the public interest and on payment of fair compensation.”

In addition it is suggested that the definition of the Islands in section 107 of the Draft Constitution be amended to read, “‘The Islands’ means, the Cayman Islands as described in section 1 of part I of the Constitution.”

It is also suggested that wherever the phrase “Reasonably justifiable in a democratic society” is used, that the phrase be amended to read, “Reasonably justifiable in the democratic society of the Islands.”

It is suggested that these changes taken together would oblige the courts to give due attention to the social, cultural and economic, as well as the legal and judicial context of the Cayman Islands. Madam Speaker, I wish to pause here to congratulate those members of the Cayman Ministers’ Association and other churches for the input that they have given to Members of the UDP, much of which has been incorporated to become an integral part of the Bill of Rights for the Cayman Islands.

It is also recommended that the following special provision on *freedom of thought, conscience and religion* become an integral part of the section as was done in the UK. There was a similar request made when the Human Rights Act was being formulated by the Ministers’ Association in the UK and they were able to get their particular section included in their Act that we are requesting be included in our Bill of Rights, namely, **“If a courts determination of any question arising under this section might affect the exercise by a religious organisation (itself or its members collectively) of the Constitutional right to freedom of thought, conscience and religion, it must have particular regard for the importance of that right.”**

Madam Speaker, it is my submission that if the Bill of Rights is adopted without such changes it could eventually conflict with Vision 2008 and the National Strategic Plan. These documents stress the importance of basic human rights but place them within a Caymanian context.

For example, they speak of Cayman as a God-fearing country based on traditional Christian values, as a community protective of traditional Caymanian heritage and the family unit, which seeks to manage growth to prevent the degradation of our Caymanian culture, environment and socio-economic framework. They describe Cayman as a country with an Immigration system, which protects Caymanians and gives security to long-term residents, which seeks to develop an awareness of our Caymanian culture which is based on traditional Christian values and a strong family unit. These aspirations and values are not protected by Part One of the Draft Constitution as it stood, but are now included in the Position Paper of the United Democratic Party.

It is acknowledged that the remaining parts of the Constitution generally represent political advances that subject to further changes as we have mentioned in our Position Paper, will generally be welcomed by most people and political groupings in the Cayman Islands. These changes will move the Cayman Islands further along the road of political responsibility and maturity and give Caymanians a greater measure of autonomy and control over their own affairs. Part One, left unchanged, could nullify this process of political advancement.

Changes will give to the European Court of Human Rights the power to strike down any Law, which contravenes the Bill of Rights. Non-Caymanian judges will be able to override the wishes of Caymanians as expressed to their Elected Representatives had we not made this amendment to the Bill of Rights as was given to us initially by the Constitutional Commissioners.

The political gains represented by Parts Two through Eight of the new Draft Constitution could be reversed by the judicial force of Part One had we not incorporated those sections which I referred to. It is therefore incumbent on Caymanians to make every attempt to ensure that the Bill of Rights and its interpretation reflects and respects the history, culture and value of these Islands.

The next fairly controversial point that we had to deal with was the question of the introduction of single member constituencies, page 52, section 67, of the Draft Constitution.

While I, along with Members of the UDP, support the concept of modernising this area of the electoral system, I believe that the full introduction of single member constituencies and the ‘one man one vote’ which proposes to divide the Cayman Islands into 17 constituencies is—as was mentioned earlier by the Leader of Government Business in tabling our Position Paper—premature at this point in our development.

I believe that a better system would be to gradually phase in this concept. For example, rather than have six single-member constituencies in George Town, we could perhaps start with two or three constituencies until the voting population becomes more acquainted with the system. Then we could move to single-member constituencies with the principle of ‘one man, one vote’—similar to what was done in Bermuda.

Although the argument could be advanced that the North Side and East End districts already have single-member constituencies, it is important to note that the ‘one man, one vote’ that applies to these districts applies to the whole district and not to divisions within the districts, thus avoiding the danger alluded to in regard to those larger districts such as George Town, West Bay and Bodden Town, being divided into smaller constituencies.

I submit that in these districts, which now have multiple representation, such as George Town,

West Bay Bodden Town and Cayman Brac to a certain extent, that the introduction of the single-member constituencies should be phased in to avoid any socio-economic or racial problems.

The Speaker: Is this a convenient time for the luncheon break, Honourable Deputy Leader?

Hon. Linford A. Pierson: Yes, Madam Speaker.

The Speaker: We shall now suspend for the luncheon break and reconvene at 2.15 pm.

Proceedings suspended at 12.46 pm

Proceedings resumed at 2.44 pm

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

Apologies/Congratulations

The Speaker: Please be seated.

I have received apologies from the Minister of Education and the Minister responsible for Health who will be in their constituency this afternoon with His Excellency the Governor.

I would also wish on behalf of the Legislative Assembly to express our deepest congratulations to the Honourable Minister responsible for Community Services and welcome together with him and Mrs. McField, the birth of their son.

At this time I will call upon the Honourable Deputy Leader to continue his debate.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

At the lunch break I started the process of the wind down on my debate and I was highlighting four of the issues that I considered had, perhaps, caused the greatest amount of controversy during the district meetings that were held by the United Democratic Party. I had covered two of those four areas: the fundamental rights and freedoms of the individuals also known as the Bill of Rights, and also the introduction of single-member constituencies. I now wish to turn my attention to the other two areas: the first one being the narrow definition given by the Commissioners to 'Caymanian.'

The Commissioners have given a narrow definition to 'Caymanian' in the Constitution, which is separate and apart from Cayman Status found on page 79, section 107. The Commissioners have defined 'Caymanian' in section 107 of the proposed Constitution to mean: "**A person who possesses British Overseas Territories Citizenship by virtue of a connection with the Islands and who:**

- a) **was born in or outside of the Islands and at the date of his birth had at least one of his parents or grandparents who was Caymanian as herein defined and who was domiciled in the Islands at the date of such birth, and**
- b) **possesses no other citizenship and is pursuing no claim to any other citizenship for which he may be eligible."**

There are four places in the proposed Constitution where it is necessary to be 'Caymanian' under the above narrow definition, namely:

- "(i) to act as Governor;**
- (ii) to be Deputy Governor;**
- (iii) to be an elector; and**
- (iv) to be a member of the Legislative Assembly."**

This definition excludes anyone holding dual citizenship. This in my view is an unreasonable departure from the provisions of the current Constitution, which allows for dual nationality by virtue of birth outside the Islands.

The Commissioners have distinguished in their definition between persons who are Caymanians and persons with Cayman Status effectively relegating status holders to a position of second class citizens. This backward step certainly cannot be the intention of the Commissioners when in fact they were commissioned to modernise our Constitution in keeping with the UK White Paper. There is no necessity to introduce this definition or references to the term.

The qualifications for elected membership to the Legislative Assembly as set forth in the 1987 Constitutional amendments have been unreasonably narrowed. Many able Caymanians will be precluded from running for office. This will be to the detriment of the Cayman Islands. The 1987 qualifications provided a reasonable balance where someone may stand for election if he –

- (i) has Cayman Status and is 21 years or over,
- (ii) is domiciled and resident in Cayman,
- (iii) has British Overseas Territories Citizenship due to a connection with the Islands;
- (iv) has no other citizenship (except by reason of birth provided he has a Cayman born and Status holding parent or grandparent); and
- (v) meets the required residency period.

An area of the present Constitution which requires further specific attention and amendment is the question of citizenship in light of the conferral of British Citizenship on British Overseas Territories citizens under the new British Overseas Territories Act 2002. Caymanian British Overseas Territories citizens are now entitled, and this entitlement has been conferred since the 21 May 2002. The question is: Is it appropriate that someone who takes advantage of this new British citizenship should be precluded from running for elected office? Certainly this is an area that requires much more thought and thus the reason why

we, the United Democratic Party, have incorporated in our Position Paper what we regard as a suitable definition for 'Caymanian'.

As in the case of the qualification for elected membership to the Legislative Assembly, the narrow definition given by the Constitutional Modernisation Commissioners will also negatively affect electors. This will unnecessarily exacerbate the non-inclusive nature of the electoral system in the Cayman Islands and lead to an even smaller percentage of the long-term resident population of the Islands participating in the electoral process. Madam Speaker, this also cannot be desirable.

The definition of 'Caymanian' which I will repeat, and which the UDP has put forward in our Position Paper, reads as follows:- **"A person who possesses British Overseas Territories Citizenship, British Citizenship, or citizenship by virtue of birth outside the Islands and who:**

- a) at the date of his birth had at least one of his parents or grandparents who was Caymanian as herein defined and who was domiciled in the Islands at the date of such birth, or**
- b) has Caymanian Status."**

We feel that this definition is much more acceptable, just, and equitable to those individuals—particularly to those who decide to have the British Citizenship conferred upon them and decide to accept this—and, indeed, those individuals who because of medical reasons or otherwise had their birth outside of the Cayman Islands, for example, in the United States of America. We know that if for medical reason or otherwise a child is born in America, he automatically obtains American citizenship. But that would not make him any less Caymanian.

The last of the four areas that I wish to comment on has to do with the *provision of referenda* which I have spoken on at some length but wish to comment on a little further at this point and time. It is found on page 45, section 50 (2) of the Draft Constitution.

It is important to note right up front on the question of referenda that provision to enable a referendum law to be enacted now exists under the current Constitution, but no such law has to date been enacted. The Constitutional Commissioners have also included this provision under the proposed new Constitution. But they have also added a proviso (referred to earlier) that the question of whether the Islands should seek an amendment to the Constitution that may result in the independence of the Islands shall be a matter of national importance. Madam Speaker, we, the Members of the United Democratic Party, certainly supported that recommendation.

It is most interesting as it seems that only after certain Opposition Members not now within the House started speaking about referendum that the Opposition Members within the House thought that was a very good issue to discuss and decided to make it a major issue in their meetings.

It is important to note that if the purpose of a referendum is to obtain the precise views of the voting public, it necessarily follows that the subject on which the referendum is called must be broken down into sections so that each individual issue raised by the subject is capable of receiving a Yes or No answer.

For example, it would not be useful, and no doubt confusing to the voter, to ask the question 'do you support the Bill of Rights?' when the Bill of Rights as contained in a Draft Constitution is made up of 14 different sections—each of which would need to be broken down into several constituent parts in order to fully and clearly ascertain the views of the individual voter.

If so much difficulty would be presented by one section of the Draft Constitution, such as the Bill of Rights, imagine the confusion that could be caused if the various sections recommended by the Opposition had to be similarly broken down to obtain a Yes or No answer. It therefore baffles me why any well-thinking representative of the people would wish to put them through such a difficult and frustrating process when they have yet to show any justification where such a process is in the interest of the wellbeing of the people of these Islands.

I have always held, since the first meeting I conducted in the George Town Town Hall, that a referendum is most effective when it deals with individual and specific issues. It would not provide correct results when multiple issues are involved.

Madam Speaker, in coming to a close I wish to reiterate some of the points raised during my debate on the amended Motion before the House today, which reads: **"BE IT RESOLVED THAT this Honourable Legislative Assembly debates and takes note of the Report of the Constitutional Modernisation Review Commissioners 2002."**

In listening to the Opposition in their attempt to sometimes make light of the 'take note' Motion, I have to wonder whether they really fully understand what it means. The 'take note' Motion as previously explained in this House—which I will repeat again, especially for the sake of the Opposition—enables the House to debate a matter without coming to any positive decision (Page 441, Twenty-second Edition of Erskine May). This type of Motion was necessary to overcome the conundrum facing Government, in that we were able to accept parts of the Constitutional Commissioners' Report, but we were unable to accept other parts of it. Thus, it would have been very difficult to have had an affirmative Motion on the Commissioners' Report. We were unable to vote 'Yes' on it and we would have been unable to vote 'No' on it, thus the reason we took the view and the route of preparing a Position Paper from the UDP which examined all areas of the Report and gave our views on each area.

Madam Speaker, I believe that when and if a Motion is taken on this to approve it that it will then

form the basis of the position of the majority of Members of this House if indeed it is approved.

I trust that short explanation, once again, will enable the Opposition to understand why the Government (the UDP) decided to take the route of using a 'take note' Motion on the Report of the Constitutional Commissioners rather than an affirmative Motion in this House.

Again, I wish to take the opportunity to congratulate you as the Speaker of this Honourable House for the professional manner in which you have conducted the affairs of this House ever since you became Speaker, and, in particular, the very unbiased and professional approach in the handling of the disgraceful behaviour by the First and Second Elected Members for George Town. Your action can only be described as admirable.

We have seen in many countries, including the great United States, where the popularity of many key people, like presidents, tends to soar during a crisis time. I think this is so well known, that movies have also been made on such a political sort of policy that is followed by many politicians. We have seen it recently with the President of the United States (George Bush) how his popularity soared following the 9/11 catastrophe when he decided to put troops into Afghanistan to root out the Taliban and the Al-Qaida groups. This type of policy is well known throughout the world and we are now seeing a similar situation in the Cayman Islands. I submit, and verily believe, that the whole objective of this furore that we have seen recently was to improve the political standing of the Opposition in developing the membership of the People's Progressive Movement. As I said earlier, what makes me angry is that they believe that by fooling the people they would be able to accomplish their self-political ends.

I contend that the last thing in the minds of those individuals was the interest of the people of these Islands. Had they seriously intended to bring a referendum motion to this Honourable House they would have done what each of us (including myself) have had to do over the years, and that is comply with the ruling of the Honourable Speaker of the House. It is disgraceful the way that those two Members—and by extension the Opposition—behaved, and the derogatory remarks they had to make about you and this Honourable House at their public meetings.

I say again, and I hope that the public understands precisely where I am coming from, I do not believe that the First Elected Member for George Town and his cohorts and the Members of the Opposition, had any serious intention of having the referendum motion passed. What did they do? They decided not to comply with the rulings of the Chair. They went out and held a meeting and told the people, '*See what the Speaker is doing to us; see what the UDP is doing to us; they will not allow you to have your referendum; they are impeding your rights.*'

Nothing could be further from the truth. We would have been happy to debate them on a referendum motion had they brought the referendum motion in the proper form. But they deliberately decided to flout the rules of the House so that they could create a crisis and, therefore, get a following with the expressed intention of developing the newly formed People's Progressive Movement, for their own selfish political agenda. This is my own considered opinion and I believe that it is shared by many well-thinking people.

They knew that the motion they brought was flawed. They knew, because they seem to know everything. So they had to know that neither one of those six issues they recommended to be considered as national issues could qualify under the criteria that had been provided by the Constitutional Commissioners in the Constitutional Review when they used as an example of national importance the independence of your country—something that will change the course of your country and will have a significant impact on your country. Putting on the shoulders of the people of this country \$55-plus million onto our already heavy public debt; that is a matter of national importance.

Provision was made at the time that the former Leader of Government Business brought this to the House. Why did he not ask the people their opinion before he put the country into such heavy debt? Why did he not ask the people's opinion about the \$60 million that he raised for Cayman Airways that will become a continuant liability of the Government? He is playing games, and he should be truthful. He is the one who is going out there talking about, '*It is truth time Cayman*'. He had better start practising what he is preaching!

The whole exercise—the whole socio-economic and political unrest that we see in the country today is through political one-upmanship, trying to meet a certain political agenda. It has nothing to do with the betterment of the people of these Islands. It has only to do with their own selfish political agenda—with one eye on 2004.

I believe that the process carried out by the UDP has been done in accordance with the terms of the White Paper (Partnership for Progress and Prosperity), which was given to all of the UK Overseas Territories. Within that was the directive to Overseas Territories to modernise their Constitutions. I do believe that the UDP has complied in every area with that directive. I also believe that these Islands will be better off as a result of the action that the UDP has taken in this respect, and can only call on the Opposition to cease in their attempt to destabilise the country through their efforts of inflaming the passions and emotions of our people. I would again ask them to put their own political agenda on the backburner and think of the interest of the people of these Islands, especially during this economic downturn that we are now experiencing.

Finally, I wish to congratulate the previous Governor who has been relegated by Members of the Opposition. But I think in the process of this Constitutional Modernisation Review he was pivotal and did a good job. I believe I know why there is such hatred from the Opposition for him. It is obvious that he would not be the biggest fan of the First and Second Elected Members for George Town, as it was during his tenure that the First Elected Member for George Town was removed as Leader of Government Business. I know they have not forgiven him for that. So I do not expect that they will be out there singing his praises. But, Madam Speaker, he did a very good job in assisting with this Constitutional exercise. I want to also thank him for agreeing to extend the consultative process by some nine and a half weeks.

Thanks also to my colleagues for extending the time even further (for another half day) to convene the First and Second Elected Members for George Town, who had been suspended from the House until 3.20 pm of the day we were supposed to recommence, but decided to adjourn so that they could attend.

The Speaker: Honourable Deputy Leader, you have four minutes remaining.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

I support the Position Paper which has been presented by the Honourable Leader of Government Business, as evidenced by my signature appended thereto, and I look forward to voting for its approval as the majority position in this Honourable House.

I thank you, Madam Speaker.

The Speaker: Thank you.

Does any other Member wish to speak? The Fourth Elected Member from the district of West Bay.

Mr. Cline A. Glidden Jr: Thank you, Madam Speaker.

It is a great privilege to stand here to do what I feel is my duty as a representative of the people: to express their opinions and their feelings—opinions that have been expressed to me and other Members of my party, the United Democratic Party (UDP), on an issue as important as this one.

At times when it is convenient, the Opposition Members of the People's Progressive Movement (PPM) take great interest in saying that this issue (the Constitution) is of national importance. But it is hard to believe that they could genuinely feel that this issue is of national importance [because] when they had the opportunity to stand here and debate the merits and demerits of the proposed Commissioners' Report they instead used this opportunity to gain some political mileage by boycotting the debate and doing less important things—I am not sure whether it is going

around stirring up people, going fishing, or planting some produce to give away at the Glass House.

The Speaker: Honourable Member is that your opinion?

Mr. Cline A. Glidden Jr: Yes, Madam Speaker. I am just stating the possibilities—my opinion.

It really bothers me that having been accused of being a part of a Government that uses such heavy-handed techniques—we made a very considered decision to not only suspend the sitting of this Honourable House to allow two Members who had been [suspended]—again in my opinion, correctly suspended—to be a part of this very important debate

It amazes me that during the time after their suspension at a meeting in North Side, I heard that they were saying the reason for their suspension is that the Speaker wanted to restrict their opportunity to debate this important issue. We made sure that there could be no justified accusations of that being the case. Even after going to the great extent to adjourn the House to allow those Members to be a part of this historic and important debate, they still insisted that they would not come and represent their people. What even makes that more amusing is that according to them they represent the majority view. If they have been given that mandate; if they have the majority view to represent, how could they feel that they are good representatives by not representing those views?

I am real proud to be a part of a Government that not only took into account the suspension of the Opposition Members, but also the perception that could have been acquired by people who are concerned about an important issue such as the Constitutional debate, feeling that in some way maybe the views of the minority, even though the verbatim *Hansard* is going to be forwarded to the United Kingdom. But there could have still been a perception that the views of the minority would not have been taken into account. For if we look at the way that normal motions are debated in the Legislative Assembly, usually the importance of those motions is gathered from the resolution, and if the motion passes with a majority it is very possible that the minority's views would be understated or be ignored.

In consideration of that fact, the UDP made a decision to amend the motion that we would no longer have to vote on or the Opposition feeling that they had to win the debate. There were no winners or losers in the debate because we amended the motion to say we would debate and take note of the motion. So, regardless of whether there was one Member's opinion, or whether there were the nine Members of the UDP, it made no difference as far as numbers were concerned. And even with an attempt to give that consideration to the Opposition they not only criticised that decision, but decided to boycott the debate.

I think this goes along the continued path that the Opposition (the PPM) have expressed as being their *modus operandi*. It is really saddening to see that the PPM, along with the People for Referendum (PFR) tried to make a separation of the two of them. I guess it is supposed to be coincidence that the members of the PFR are all members of the PPM. They try to give themselves some more independence and credibility by saying, *'This is not our referendum, this is the referendum for the people and this is the People for Referendum that are out getting these signatures'*. I think we all know that the PFR and the PPM are one and the same. The irresponsible actions by those members have gone a long way in having a detrimental effect to the destabilising of our country.

One of the things that Cayman is known for is a very stable government. They were making it seem as if there were questions as to the state of democracy in the Cayman Islands. We were told that the Department of Tourism office was getting many calls with concern as to whether or not it was now safe to visit Cayman; or whether all of the activity that was going on made it unsafe for our tourists, that we spend so much money attempting to get to come to Cayman. To believe that five Elected Members and a group of their followers would be involved in something that would have a negative impact on the Cayman Islands . . . it is really amazing and very disappointing!

If it were not bad enough that they would bring questions on the stability of the country, they decided to make a joke of it going through the streets with wheelbarrows and ground baskets—with something that they saw as important as the referendum.

Now, Madam Speaker, you have travelled quite a bit, and I know the rest of us have too. On many occasions I have spoken to people who have not been to the Cayman Islands and only know it as being a Third World Country. They refer to the way the natives live and sometimes perceive us as living in grass huts and swinging from trees. I am sure that when such people saw on the front page of our newspaper in the international headlines our representatives and their supporters going down the main street with wheelbarrows and ground baskets that did not do too much to help dispel that notion of the uncivilised nature that some people see Cayman as.

We have to ask the question, Is this a testament as to how the PPM or the PFR feel about the majority of the population? It could be questioned as to whether they actually want to keep the country in the Dark Ages by providing the populace with misinformation and riling them up in the emotive way that they did.

It is amazing and real discouraging for me to be a part of this Honourable House—to have worked with Members of the Government and now to see them [the Opposition] in what appears to be an attempt to stagnate the progress of our beloved country at a time when we have so many issues that we have

to deal with; at a time when we are facing unheard of ratios of unemployment, when people are worrying about their children finding employment when they come out of school and when those who had steady jobs are being laid off because of the big accounting firms closing down, people being relocated; at a time when there are cries for education reform; at a time when we are still fighting with the best method to provide housing for the many underprivileged people who have not been able to find decent living accommodations; at a time when the Social Services [Department] is being stretched and strained to try to provide for the needy; at a time when there is over-crowding at our prisons where we are looking at ways and means of trying to deal with the overcrowding before we get into a disastrous situation; at a time when we are suffering the scourges of drug abuse and the need for drug rehabilitation; at a time when we are under tremendous strain trying to rebuild our tourism product and try to get people back into Cayman spending money, when we are trying to encourage foreign investment to come to the Cayman Islands when all around the region and around the world there is so much competition for that foreign investment dollar—that at those times we could have supposedly responsible parliamentarians taking to the streets to make a political issue of something like our Constitution just to gain political mileage.

When they get up on the steps of the Court House and talk about democracy under attack and freedom under threat and how they could be put under the prison, and that they are proud to be right wingers, I believe they honestly do know the effect that has on our beloved Cayman Islands. I find it real disturbing that knowing the detrimental affect that it is having they are still willing to sacrifice the serenity and stability of Cayman for their political motivations.

Madam Speaker, it was a lot of talk concerning the proposed referendum and, again, it is amazing to see that something as important to the people as the referendum, something which many Members in this House expressed their support of before, could attempt to be used in such a political way. I cannot believe that they are so selfish that they would rather disrupt the country for their political gains instead of working with the Government to make the country successful.

When we speak about the referendum, that there were Members before the United Democratic Party that supported the referendum, I know that there has been much talk as to whether or not the Members that brought the motion genuinely wanted the motion to succeed. But even the question of referendum (that question of national importance) . . . I know that the PPM tend to feel that they have a monopoly on intelligence and they feel that they can make a verdict as to whether something is of national importance or not, but if we were discussing—and many Members over here have said before that they support a referendum on items of national importance and the question has

been asked what could be more important than the Constitution.

We all agree that the Constitution is very important, but what was interesting was that this referendum was not on the Constitution. It was not about whether or not we should have a new modernised Constitution. If the referendum was being proposed to say whether the Cayman Islands wanted a new Constitution, I do not think anyone would be able to argue that that is a matter of national importance. But when we in our wisdom choose six items of the proposed Constitution and we decide that those six items are of national importance, who gives us the authority to decide what areas of our Constitutional modernisation are of national importance?

The churches had a lot of concern about the Bill of Rights. I am sure if you speak to them they would say that the inclusion of the Bill of Rights is an issue of national importance. But here we have the People for Referendum. Their proposal is calling for a referendum on the Constitution, but there is no inclusion of the Bill of Rights. Does that mean it is not an issue of national importance? It was so obvious to see how the PPM made a calculated attempt to get people involved in this referendum issue. Again, not based on anything to do with the Constitution but because they saw this as a way of gaining the support of what they felt would be a majority of the voting populace through emotive means.

We have people in West Bay who have come to us and said, *'They came and asked me to sign the petition and I told them I did not want to sign it and they told me this has nothing to do with our support for Mac, this is against independence'*. They said *'this is nothing to do against the Government; this is because the United Kingdom wants us to go independent and this is showing that you do not support independence, so sign the petition.'*

I stood at a gas station in George Town and overheard a person who was trying to get another individual sign the referendum saying, *'If you support Kurt sign this referendum, if you support Mac then do not sign'*. I have also heard persons saying, *'If you support the decision to suspend the two Members then do not sign, but if you think that that decision was wrong, then sign the petition'*.

Now, these were supposed to be people that were responsible for seeing whether or not the general populace was supportive of the Constitutional Review; seeing whether or not they were supportive of the modernisation as proposed by the review. But it has been taken to a level where there is no discussion of the values of the Constitution—the merits and demerits. It is getting down to strictly politics; it is going right back to 8 November 2001, when there was a shift in the power base. Now, our Opposition Members see this as a possible opportunity to regain some power so they use whatever means available to them on such an important issue as our constitutional modernisation.

Madam Speaker, it really bothers me to hear them purport to be representing a majority of the people. As we can see in this debate they are representing no one. But suppose their intelligence has [shown] that they have the majority of support. I really have great difficulty with the method of calculating that majority. But, again, maybe they know something that we do not know.

Suppose there were 6,500 petitioners that signed saying that they wanted a referendum on the Constitution before it was debated. If we have 6,400 residents (and we just had a census a few years ago that shows that we have 40,000 residents) it is amazing to me how anyone can determine that 6,400 would be a majority of 40,000. I have heard about creative accounting before, but this brings it to new levels.

We have gone over and have tried to authenticate those versus the register of voters and I think there are some 12,000 registered voters. My information tells me that there should be around 50 per cent of the 7,000 would actually be registered voters. That would be 3,500 of 12,000 if we look at registered voters. But yet we have the PPM claiming to have representation from the majority of the people to say that they want a referendum.

Now, if I have 33,000 people out of 40,000 that have not signed the petition and have therefore said, *'No, we do not want a referendum'* or, if I have 9,000 of the 12,000 registered voters that have not signed the petition and have therefore said *'No, we do not support a referendum'*, as a good responsible Government I think that is a clear indication as to where the majority of support lies.

Also, taking into account all the emotions that were running rampant during the time when this petition was going forward. If there was ever a time that an Opposition could have [received] the majority of support, it should have been then. But even with all the concern over the Members—and this happens to be the Member that was the most popular in George Town, our biggest constituency!—I think he got 3,000 votes. Now, even with all of that they were only able to get less than 25 per cent of whichever number residents or persons on the voters list. So, there we have 75 per cent. What is really encouraging is that 75 per cent of those people—even the 25 per cent did not take a position as to whether or not they supported the Government or the views put forward by the PPM. But it would have been hard for them to say whether they supported that because until now no one knows the position of the elected representatives. We still do not know whether or not they support the Constitutional Review; we do not know whether or not they support the modernisation; we do not know what recommendations they support.

Up until now we have not received a position paper from them. This is the time when they should be here debating their views and make the opinions of the people known (that they represent) for all to hear.

But they have decided that they have something more important to do with their time.

When we talk about the undermining and the destabilising, it is important for us to note that something as serious as the Constitution, it had broad ranging effects. It even went as far as causing division in some of our churches because it is a very emotive topic, especially the Bill of Rights. The United Democratic Party got representation from members of various churches as to their concerns about the way that the proposed Constitution would change and affect the way of living for many Caymanian people, especially the negative effect it would have on our religious beliefs.

While it was interesting and very helpful to gain the views of members of the clergy, it is very hard to get a presentation from a minister with his concerns and to then take those presentations as being unbiased and objective—only to have a minister from the Cayman Islands Ministers' Association stand up in town and encourage people to come to a political meeting.

When the ministers took a decision to get involved politically (by obviously taking sides and not only inviting people to come to the meeting but also getting on the platform and speak at the meeting) it is almost impossible for any rational thinking individual to then assume that their opinions are non-political; that their opinions are still unbiased and that they have any objectivity. So, it makes us question what were the motives behind those recommendations. How much weight can we place on those recommendations?

Any time you have to start questioning members of the clergy who get up and preach love and unity, preachers who would know that taking a stand on a political issue stands a chance of dividing a congregation, it is real hard to accept representation from those individuals. You then tend to look at it in the same way I would take it as coming from any other Member of the Opposition. I would look and take account of it and say, '*Yes, this is possibly a good idea or bad idea*'. But I also place quite a bit of weight on the political aspirations of those individuals.

Now, this debate on this issue has caused us to have to do a similar thing with some members. I am happy to see that it was very limited as to those preachers and pastors who felt the need to get involved at the level that they did, but it was saddening to see that some made the decision to.

It is very similar to the unsuccessful members that ran in West Bay. I think West Bay had the most candidates; we had four seats and twenty-two candidates. It was amazing to see that all of those people (prior to the election) felt like they had something positive that they could contribute. They all felt that, *If the people of West Bay decide to elect us as their representatives, we have something positive that we can contribute to making Cayman a better place for us all to live*. But then after the election process and four

Members were elected, the other eighteen persons who had so much to offer, all of a sudden it appears that they have nothing to give except criticism. There is never any positive solution or proposal.

In West Bay we make a point of having quarterly meetings and those persons do not even attend the meetings to offer any suggestions. But as soon as there is an issue that becomes what they see as possibly an issue where the Government of the day is taking a bit of political battering, they all of a sudden jump up. We start seeing them in marches; you hear them on the 'Talk' shows criticising what a bad job the Government is doing—never anything constructive! All of a sudden they have gone from being able to offer the people a positive contribution and making a positive contribution to Cayman, to only criticising the current Government!

Talking about West Bay, I remember right after the election one of the unsuccessful candidates started a district council. He had a lot to offer. He did not want to join the district council that was already started so he decided that he was going to form his own. There was a lot of PR about the district council and the value it would bring. But since that time we have neither seen nor heard anything about the district council again. Actually, we have heard nothing about the individual either, but now I happen to see him in this march with the People for Referendum. All of a sudden he is using this opportunity again to jump up and criticise the Government.

One of the individuals who writes in the newspapers all the time (I think his name is Mr. Dexter Rivers) . . . after the elections he sent me an email offering me congratulations saying, 'I was on the opposite side but I just wanted to know whether this avenue was available so that we could have some constructive debate and so I could give some suggestions'. Madam Speaker, I did not receive any more email. I did not get anymore discussions and it is amazing to see that he as well used this opportunity to get up and call for this referendum—but during the rest of the time, nothing positive to contribute.

One of the candidates who is now calling for a referendum—she debated the Constitution at every one of her meetings. She called for the cancellation by the UK of the Order in Council and we all know that the only time that the UK will give up that kind of power is when the UK gives us independence. Even with all the criticism that we took during the elections of being radical, the UDP Government has never talked about wanting or supporting independence. It just goes to show, even with the monopoly on intelligence, it is very easy to get caught up and say things that we feel are going to be popular. We talk about the UK cancelling the right to provide for the Order in Council. That same individual spoke about the need for full internal self government and the difference between full internal self government and internal self government. She challenged the father of this House to a debate on the issue. Again, she knows everything

about the Constitution—she knows everything about everything!

A few days ago I heard her on the radio criticising the Minister for Education because he mentioned that referendums throughout the world tend to be more specific only on a few topics—three the maximum. She disagreed with that. Her information tells her that it is normal to have referendums on a whole slew of items.

It is amazing that six months down the line, even after we got over the switch in power on 8 November we are still back to the personality politics. On every issue that we get a little opportunity we always go back to *'McKeeva versus Kurt; West Bay versus George Town; black versus white'*—these issues that really have nothing to do with the Constitution.

I think the main problem with the PPM goes back before the election in 2000, because the First Elected Member for George Town had associations with other Members. I guess his chief advisor (the brain of the group) decided that even though we were getting close to the election and fifteen people would be elected, their intention was to become Leader of Government Business and, I guess, Deputy Leader of Government Business—I am not sure exactly what else, but I know that the main emphasis was getting Leader of Government Business. Even though he needed a majority of support for that he was able to advise him at that time to not make any affiliations with anyone else—*once you have me, you have all that you need. I am all that you need out of the fifteen Members once you and I get elected.*

I guess it is that same fuzzy math that calculates what is the majority of the population. But a majority was calculated to mean two of fifteen being a majority. And so they did not form any alliances, they got elected and then the game started. They ran from West Bay, to George Town, to East End, North Side, back and forth trying to form a Government that would allow them as two of them, as a minority, to form the Government.

We all know the scenario that was played out. They were able to somehow get a majority and get Leader of Government Business. It meant that they got Leader of Government Business but they did not get two seats on Executive Council.

A lot of the problems that started were because the brain of the group was not only happy with getting Leader of Government Business but he also had to dictate who the other Ministers would be. He was operating very much like how the proposed Chief Minister position is in the new Constitution. He was the real power broker—he would decide which other Members . . . *'West Bay, you got four together in a group but you do not deserve to have any Ministers in Council, and Cayman Brac you have two and you do not deserve to have any, and George Town you have one and maybe if you all are nice to us we will give you another one'*.

Finally, after much ado, the Government was formed.

Well, within a very short time that marriage of convenience started to show signs of weakening and the problems became evident. And the lack of leadership abilities became evident and the majority that had formed the government and chosen the Leader of Government Business, once again in this great democracy that we have, decided that we needed a change in leadership.

The country had been stagnant for too long. There had been too many issues like the proposed referendum that had been forgotten. The Leader had forgotten too many things and so we wanted a change. Even though we sat in a room and the majority decided that we wanted that change, the brain of the group again—the chief legal advisor—advised his client, *'do not worry about what the majority says, you got me on your side again, do not listen to them, they are telling you to step aside and take a position, to give the leadership up, they only have the numbers, we have the intelligence on this side, they cannot do it. What we are going to do instead of taking the advice and doing the obvious thing, we are going to the people and try to stir up some civil unrest and we are going to start doing some marches and some demonstrations because that is the way that we know politics should work'*.

The Speaker: Honourable Member, when you refer to the chief legal advisor, out of the abundance of caution so that there would be no confusion with the principal Legal Advisor, the Chair would appreciate if you would identify the person to whom you refer in such reference.

Mr. Cline A. Glidden Jr: Madam Speaker, I was speaking about the chief legal advisor for the PPM. I am not sure exactly who that is any more. I am just assuming that there was some legal advice based on the procedures and the events that followed. So, I could assume that person happens to be the Second Elected Member for George Town. Just in my opinion.

The Speaker: The Second Official Member.

Hon. David F. Ballantyne: Perhaps I could clarify that, to the best of my knowledge, part of my responsibilities is to act as principal legal advisor to the Government. I did not take issue with my colleague because I did not think there was any difficulty in disassociating myself from the subject of his remarks.

Thank you.

The Speaker: Thank you Honourable Second Official Member.

Please continue Fourth Elected Member from the district of West Bay.

Mr. Cline A. Glidden Jr: Thanks so much for that clarification and I really appreciate the Second Official Member's acknowledgement. And I clearly want to state that when we talk about chief legal advisor it was to the PPM or to the First Elected Member from George Town who was the Leader of Government Business and not to the Government.

Madam Speaker, it appeared that what they felt the best course of action was, instead of accepting what the majority wanted, the majority of the elected Members who elected and chose the Leader of Government Business at that time, they decided that once again they would go to the people and stir up a lot of emotive issues. There were a lot of people that voted for the First Elected Member for George Town. Those people would be upset to have him removed so that is the method that they would use to stop the democratic process.

Thankfully, democracy prevailed; the majority won and that Member in all of his wisdom, failed with his advice that was given. We all know that egos make it difficult to accept failure and so we stood by the wayside and waited for the next attempt. *'When can I stir up some more civil unrest, when can I cause some more pressure on the Government again?'*

He did not have very long to wait because before we knew it the 2002 Budget was here. Again, because of the indecisive nature of the previous Leader, we found ourselves in a very dire situation where the country was faced with some \$90 million shortfall between revenue and expenditure.

After much belt-tightening and sharpening of the pencils, it came down to some \$54 million. The United Democratic Party Government decided that we could not tax the common man anymore—the only way of doing that would be to raise license fees. And we would have to make some significant adjustments to the license fees in the financial industry.

Well, he took that opportunity again to jump up and down and talk about how this was going to ruin our financial industry; how the banks were going to leave; how our people would be unemployed; all doom and gloom: companies would leave. Once again working on those emotive aspects of the populace, but in the meantime offering no possible solution.

By the previous year's indication, his proposal would have been to go and borrow to increase the public debt. So, he again tried to rile up the crowds to bring the country into a state of unrest as any radical would do. Thankfully, again, he failed.

Now we get to the situation of the Constitutional Review debate: very important and emotive debate. Madam Speaker, I know you were involved in politics for a while. In 1992 there was a debate on the Constitution that has always been an emotive aspect. I know especially in your constituency any time there is a discussion on the Constitution the people's concern is always whether we are going to have any advancement towards the modernisation or towards in-

dependence and so it is very easy to stir the masses again.

In true fashion, being the radical that he is, he produced what was being referred to as a "water-tight" motion calling for referendum on six issues of national importance. This motion was brought in the name of the First Elected Member for George Town, but when the motion was discussed with you, of course his chief legal advisor (that is, the chief legal advisor to the First Elected Member from George Town), that person being the Second Elected Member from George Town. I am sure he is also their Constitutional advisor—he was asked whether he could be allowed to come in to the meeting with you to discuss the motion.

What we found was that the motion was not as "water-tight" as he said it was. We found that the motion was a little bit porous and it was quite a bit of problems with that motion. And you in your wisdom, Madam Speaker, and in your kindness, you attempted to assist the Member by making the recommendations as to what could be done to make the motion acceptable—as we all expected any responsible parliamentarian to do, to have the motion amended.

But in true radical fashion, continuing with *the modus operandi*, once again the decision was made to take it to the streets. *'Let us go out and rile up the crowds again, let us go out and slander the name of the Speaker, let us go out and slander the Government, let us go out and slander the House and talk about the integrity of the Speaker'*—once again playing on the emotions of our people and at all times very cognisant of the detrimental effect that this is having on our beautiful, serene Cayman Islands. Very cognisant of the fact that when you try to encourage investors and foreign investment to come into the country that all of these indications of instability do a lot to run away those investors to some of the other more competitive jurisdictions.

Thankfully, once again his attempt failed. When the failures as responsible representatives were exposed and you asked them to apologise, you gave them the opportunity on many occasions when they could have very easily apologised. They knew that was the decent thing to do; they knew that was the right thing to do; they knew that was the responsible thing as representatives elected by the people to do; to show honour and respect to the position of the Chair. But once again they made that choice that would be too easy to do, and that would save the country of too much embarrassment. What did they choose to do? It should not be hard for anyone following the story to know what to expect.

Once again they went back to the people and riled them up. They went so far . . . and I want to congratulate and give you credit for the foresight and judgment you made because we had a situation that could have become even more volatile than what did occur. For when they recognised that they did have some people whose emotions were stirred up who were out there cursing and calling for someone's

head, they decided to have a public meeting to continue the process. They felt that you in your power, recognising what was being done and the abuses that were taking place, that when you exercised the punishment that you could have exercised, that once again that might have been the *straw that broke the camel's back* and that might have caused the type of unrest and disturbance that they wanted.

I would just like to use this opportunity to refer to where—because I think a lot of the listening public does not recognise how far they did push and how far the power of the Chair does extend—and I quote from the Immunities Powers and Privileges Law (1999 Revision) section 18(2): -“(2) Whoever-

“(a) publishes any statement, whether in writing or otherwise, which falsely or scandalously defames the Assembly or any committee, or which reflects on the character of the Speaker or the chairman of a committee in the discharge of his duty as such;

“(b) publishes any writing containing a gross, wilful or scandalous misrepresentation of the proceedings of the Assembly or a committee or of the speech of any member in the proceedings of the Assembly or a committee;

“(c) publishes any writing containing any false or scandalous libel on any member touching his conduct as a member; or

“(d) publishes any report or statement purporting to be a report of the proceedings of the Assembly in any case where such proceedings have been conducted after exclusion of the public by order of the Assembly,

is guilty of an offence and liable on conviction before the Grand Court to a fine of eight hundred dollars and to imprisonment for twelve months.”

Madam Speaker, when it talks about—“ . . . or which reflects on the character of the Speaker or the chairman of a committee in the discharge of his duty as such;” I think we could all agree that there were grounds, at least for that to have gone to . . . I want to put a little caveat in there that says: - “19. No prosecution for an offence under this Law shall be instituted except with the written sanction of the Attorney-General.”

Madam Speaker, with all that was being said at the time it is (at least in my opinion) very possible that those sanctions could have been brought. But I feel that if such had occurred we would not be enjoying the stability and serenity that we currently enjoy. And I feel that the wisdom of all who were involved was very clearly expressed by not attempting to bring the penalties that may have been possible, but allowing it to play itself the way it did; allowing those people who wanted to have a say, to have a say.

The Speaker: Honourable Second Official Member.

Point of Clarification

Hon. David F. Ballantyne: Madam Speaker, I have no desire to unnecessarily interrupt the proceedings but I am slightly concerned about the . . .

The Speaker: Is it a point of elucidation?

Hon. David F. Ballantyne: Point of clarification.

I think reference to possible exercise of discretion on the part of the person occupying the position which I do, perhaps should be avoided. If I may just offer that observation. I do not propose to comment any further on the circumstances. But I would prefer that the Chair make clarification if appropriate.

The Speaker: Thank you, Second Official Member.

Fourth Elected Member from West Bay, I think the point has been taken and you did make an attempt to bring it to [the attention of] Members and the wider listening public section 19 which stated that; “No prosecution for an offence under this Law shall be instituted except with the written sanction of the Attorney-General.” The Honourable Second Official Member has amplified that, and we are grateful for that, so perhaps if you could move on from that point.

Mr. Cline A. Glidden Jr: Thanks so much for that clarification. I just wanted to make sure that everyone is aware of the powers that are available there.

The Speaker: Is this a convenient time for the afternoon break? Or would you wish to go on to a new point?

Mr. Cline A. Glidden Jr: It is a good time.

The Speaker: We shall now suspend for the afternoon break.

Proceedings suspended at 4.17 pm

Proceedings resumed at 5.05 pm

The Speaker: Please be seated.

Proceedings are resumed. We have passed the hour of interruption. May I call on the Honourable Deputy Leader to move the suspension of Standing Order 10(2)?

Moment of Interruption

Suspension of Standing Order 10(2)

Hon. Linford A. Pierson: Madam Speaker, I move the suspension of Standing Order 10(2) to allow for debate pass the hour of adjournment.

The Speaker: Thank you.

The question is that Standing Order 10(2) be suspended to allow the House to continue its business until 6 pm this afternoon. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. Accordingly, the House will continue business until 6 pm today.

Agreed: Standing Order 10(2) suspended to allow proceedings of the House to continue until 6 pm.

The Speaker: Continuing the debate, the Fourth Elected Member from the district of West Bay.

Mr. Cline A. Glidden Jr: Thank you, Madam Speaker.

When we took the break I was emphasising the irresponsible actions of the PPM, and more specifically by the First and Second Elected Members from George Town and the way that they have attempted to stir up the populace and cause civil unrest and to change the serene and safe Cayman Islands into being something a lot less attractive.

I was going over the method of operation that they have been using before the 2000 Election right up until the last attempt. And I am real proud to be able to say that with all that has been happening the majority of people of Cayman have once again shown their intelligence and their astuteness as to what is really happening. They recognise the need for us to have stability and that democracy is alive and well in Cayman even though there are some of the Elected Members who would like to make people believe that there is what they call a threat on democracy.

The final attempt that they used during their contribution to the amendment to the motion—even after threatening to boycott the debate, they decided to come into the Legislative Assembly just to make their position known. And Madam Speaker, they chose to base their one line of reasoning on a document, namely, the Constitutional Modernisation Checklist but not as would have been expected by responsible representatives.

The document they chose to use was not the original document, but one that had apparently been amended, I can only assume for brevity. It clearly stated on the bottom of that the source was GIS (Government Information Service) and they were very proud to table that document knowing full well (I assume that as representatives they knew) that the source for such a document, Constitutional Modernisation Checklist, could in no way be Government Information Service. I would assume that as representatives they would know that GIS does not have the authority to issue a Constitutional Modernisation Checklist. If they were really interested in giving the correct information they would have done a little bit of re-

search to get the original document (which a Member of the UDP tabled already) that shows the origin as being the Overseas Territories Department of the Foreign and Commonwealth Office.

Now, I have been told that attempts have been made to insinuate that in some way the United Democratic Party (the Government) was given preferential treatment and given access to this document when they [the PPM] did not have access to it. Once again, instead of accepting responsibility for their lack of research and ability in obtaining the correct document, they are trying to say that there is something underhanded in the way this document came about.

I can understand their concern because it has to be really embarrassing to come into the Legislative Assembly and submit a good hour and a half or two hours of argument basing it on a position in a document when the original document has been left out. And the Government of the day has to come afterwards and expose this weakness in their research and in their argument. I can fully understand why they would be looking somehow to place the blame on someone else as to who gave them the wrong document.

It was interesting to note that section 18 that the First Elected Member for George Town referred to so much in his debate when he referred to the fact that the Government was not following the Checklist, and when the preamble in that reads that the, “. . . **Checklist has been drawn up which gives an indication of the standards which OTs should seek to achieve, the obligations which they should strive to meet and the expectations of HMG in key areas of Constitutional Modernisation. OT Governments are asked to consider the Checklist when making proposals for constitutional change and either to incorporate suitable measures in their proposals to meet the requirements of the list or explain why a particular requirement should not apply to their territory.**”

I think it is important to note that this Checklist which was presented in 1999 to all the Overseas Territories very clearly states that this is a Checklist to be used when the Government is making proposals for Constitutional change. I think what has been missed is that we (as a Government) are not making proposals for Constitutional change. The United Kingdom Government decided back in 1999—they gave notice in the White Paper that constitutional modernisation was necessary. And then through their representative here, being the Governor, they appointed three independent Commissioners to go through a commission to make recommendations on constitutional modernisation that in no way can be seen as the Government making proposals for constitutional change.

Madam Speaker, I daresay that my interpretation of what this refers to is, if the Territories themselves choose to make some change in the Constitution—not a full revision of the Constitution using Constitutional Commissioners—to include, let us say, a

Chief Minister's position, then I can understand the point that the First Elected Member from George Town made on his section 18 which on the original document is actually 2.19 and it says, **"Do the changes suggested by the OT government have the support of the majority of the population? What is the evidence for such support? Has there been extensive local consultation (with or without the assistance of a Constitutional Commissioner or Commission) followed by a debate in the legislature in which the suggested changes have been approved by motion?"**

Madam Speaker, if we arbitrarily decided to make a change in our existing Constitution, I can see the relevance of the question as to whether or not it has the support of the majority of the population and what is the evidence of that support. Because at that stage you would want to know that there were Commissioners or referendum or something to show that that was the case. But when we all accept that the United Kingdom Government has initiated this proposed change; they have initiated the commission, why then would this section of the Checklist be relevant to ask the question, **"Does it support the majority of the population and what is the evidence for such support?"**

Once again the Opposition has failed in their responsibility as representatives of the people. When they based their whole argument as to the reasons for not attending and supporting the amendment on a document, and they only came and laid a portion of the document on the floor of the Legislative Assembly—the Honourable Minister for Planning having to lay the full document including the preamble—I see where their embarrassment came. The preamble was very important to the document because it explained the reason for the Checklist; it explained the context in which the Checklist should be used.

Once again they have attempted to cloud the issues by using a very irresponsible approach. They are trying to fool the people into becoming emotionally concerned and upset which would cause unrest and instability. They have attempted so many times to do that. If I had to give them a grade on attempting to rile up the people and them emotionally involved, I guess they would have received a very good grade. But if I had to give them a grade for providing good responsible representation for their people I would have no choice but to give them a failing grade.

It is very easy to speak to people and make reference to the need for referendum because if we went on the street tomorrow and asked people whether or not we should have a referendum, I can think of about 15 or 20 very emotive issues that we have had to deal with lately that people would want to have a referendum on.

When we had to raise license fees, I am sure we could have had a referendum for that. When we had to raise Hospital fees I am sure we could have asked for referendum on that. When we talked about

a housing program (there are some of the wealthier people here that feel Government should not be providing low cost housing) I am sure we could have referendum on that, or whether or not we should build a new school. There was an issue the other day on whether to allow cruise ships on Sunday. There is an issue as to the number of cruise ships. We could have had a referendum on that as well.

Madam Speaker, there was a real heated topic in your constituency on groupers. I am sure we could have riled people up to say that we needed a referendum on the grouper limits, the increase in building heights, whether or not we should build a new cruise ship dock, whether or not it should be on the North or South because we have mixed feelings. Even though everyone agrees that there should be a new dock we cannot come to a consensus as to whether or not it should be North or South.

I could go on and on about all the things that the people would like to have referendums on: Cayman Airways; the talk of lottery; extension of liquor licensing hours; minimum wage, et cetera. My constituents tell me that those are the issues they elected me to represent them on. They do not expect that every time I have a difficult decision to make I am going to say, *'I am not sure what I am going to do, you all tell me what to do.'*

The PPM still has not decided on a position for the Constitution. They have not expressed their views—their thing is, *'You all tell us what you want us to say'*. So different from when the First Elected Member from George Town (the then Leader of Government Business) had an emotive issue like Cayman Airways—it was not, *'you people tell us what to do'*. It was, *'We are going to make a decision'*. I can remember we decided to have a meeting in West Bay to try to find out from our constituents what they wanted. Oh, that was a terrible thing to do! We are showing up the Member responsible for Cayman Airways because we are having a meeting and going to the people. But all of a sudden they have changed their style of leadership and now instead of telling the people and representing the people in making decisions, they are really the people's representatives; they are going to find out from the people what they want.

If we had to go to the people for every one of those issues we figure the referendum would probably cost around \$500,000. Those 20 items that we just referred to that happened in the past six or eight months—\$10 million on referendums. The irony of the whole situation is that there is a great possibility that even after holding that referendum we still would not have a clear consensus as to the wishes of the people. A good indication is the petition on this proposed referendum that they wanted. Let us say that was the referendum and we got 3,500 people out of the 12,000, or, the 7,000 out of the 40,000 people—would they then be satisfied that that was a clear representation? Or would the argument then be, a lot of people

did not show up? We still do not know so we need to do another referendum.

Now I know there are people who will say that I cannot use that example because there is nothing as important as the Constitution. I agree that there is nothing as important as the Constitution but the proposed referendum that we just went through was not on the Constitution. It was not whether or not we should change the Constitution. It was on six issues in the Constitution that the Opposition in their wisdom has decided are the six issues of national importance. If they say we need to have a referendum on whether or not we want constitutional change we could not argue that it is of national importance. For we all agree that the Constitution is of national importance. Our argument is that the six specific points that they talked about. The six points that they wanted a referendum on, none of those six points can be considered to be of national importance.

If we were talking about a change to independence or in the style of Government—even if we want an issue as Chief Minister (in 1992 apparently that was a very significant issue), if we wanted to talk about terms of office of elected individuals; if we wanted to speak about rights and freedoms; maybe the make-up of the Legislative Assembly; selection of the Judicature—many issues we could see as being issues of national importance. And so when we hear people on the street saying, *'oh, those guys were just giving 'lip service' to referendum, they really do not believe in a referendum because there is nothing that is more important than a Constitution'*. Once again they are muddling the point. They are trying to confuse the issue because the proposed referendum (that we were not in support of) was not a referendum on the Constitution; it was on six selective points in the Constitution.

The six points from the proposed referendum—we talked about the concept of 'one man one vote' that is number one. **“Should the Cayman Islands adopt the proposal contained in the Report with the respect for the concept ‘one man, one vote’ and the creation of seventeen single member constituencies?”**

Madam Speaker, we have made our position very clear but we are still not sure what the PPM's position is on that. We do have a concern with the segregation; we do have a concern with the immediate implementation of the 17 single member constituencies and we have explained in detail our concerns for that—the racial segregation, the economic . . .

I was speaking to someone a few days ago who said to me, *'George Town right now is unique, the Ministers for George Town represent the very wealthy people in South Sound and the less wealthy people in the other areas of George Town'*. They have to be able to understand and relate to all segments of society and so when there are needs, for example, the housing need that currently exists, the Minister for George Town can relate and he can come to this

Honourable House and beg for housing for the poor people. If we had a section that was only representing, for example, South Sound—it would be real hard for the representative of South Sound to understand the need and value for low income housing. How could that person be convinced that that is a need for the country when the little area that he represents really has no need for housing? He would find a lot of other things that that money could be spent on. But with the present system the Representatives for George Town have to have a grasp on all of the sectors of society. And they have to be able to balance . . . because they have constituents that are not so well off and they also have constituents that are well off.

So, while we believe in the final answer being the advancement to 'one man one vote', we feel that jumping from what we are in now to that is a bit premature at this stage. We feel that it would be better to phase it in and we have made our arguments for that and have laid it out in the Position Paper of which I am a signatory and give full support to.

The second item on the Referendum petition: **“Should the Speaker of the Legislative Assembly be chosen from outside the elected membership of the Legislative Assembly?”**

It is interesting to note that this issue all of a sudden is so important that they have decided that it should be a matter of national importance and that out of the six items, that should be an issue on the referendum. According to the Constitutional Commissioners there was not very much public input, but now all of a sudden it has become a matter of national importance.

There are a lot of logistical problems with that question. When I speak to some of my constituents and they ask me what do I think about the Speaker. I say to them, *'You tell me, should the Speaker come from the inside or the outside'* and they say, *'Maybe from outside'* and I say, *'Well, if they are chosen from outside who should elect that person?'* They say *'the Members of the Legislative Assembly should still elect them.'* I say, *'If we elect that person what is going to satisfy you that the person is independent?'* Some say, *'The Speaker should be elected from outside of the House.'* Then we go into the problems of that person having to run for office and all that goes along with that.

Madam Speaker, I also ask the question since we have now reached the stage of party politics—we have two clear parties even though it appears that only one party is represented in the Legislative Assembly. There are supposedly two parties and so if the person is chosen from outside of the Legislative Assembly, does it mean that that person cannot be a member of the United Democratic Party or that person cannot be a member of the PPM? Because if they are members, whether they are Members that are elected, or members that are not elected, people are still going to perceive that there is some partiality. So, all of

those are additional questions that need to be added to this one question that they have on the referendum.

They have not addressed it here, but what is the status of the Deputy Speaker? Where should the Deputy Speaker come from? According to the Constitutional Commissioners' Report they recommend that both of them should be from outside. For some reason that is not an issue of national importance. It is only the issue of Speaker that is of national importance according to this petition. **"Should the proposed changes to the Cayman Islands Constitution be implemented between the dissolution of the current Legislative Assembly and the next General Election in 2004, as is proposed in the Report, or should the proposed changes be made as soon as possible?"**

Again, how can I see that as being an issue of national importance? If the United Kingdom Government recognised that we needed modernisation—the Commissioners went around and got agreement—I do not see anywhere in the Report a big consensus on people saying that we should not get modernisation. We recognise all the benefits that may be brought to the Island through modernisation. Why then should we have to wait to recognise those benefits until 2004?

The Speaker: Honourable Member you have 30 minutes remaining.

Mr. Cline A. Glidden Jr: Thank you, Madam Speaker.

Question No. 4 is: **"Should the Cayman Islands Constitution contain provisions to permit the electorate to initiate a referendum?"**

There are provisions made now and I think the legislation needs to come forward. We heard from the past Leader (the First Elected Member from George Town) who said that even though he brought the Motion when he had the opportunity, he forgot the importance of that. He forgot the need to bring the legislation but how could he forget something that is so, all of a sudden, nationally important. It is nationally important but during his years there when he was in a position to implement it he forgot it.

We ask, **"Should term limits be placed on the holder of the office of Chief Minister?"** Here we have an issue—we do not even have the provision yet for a Chief Minister. We have not discussed the importance of that. That is not an issue of national importance but the term limits of Chief Minister is all of a sudden of national importance.

Then, **"Should a person who holds the nationality in addition to British Overseas Territory Citizenship by virtue of a connection to the Cayman Islands and British Citizenship be permitted to be elected as a Member to the Legislative Assembly?"**

I think that we all have made our points on that, but even to have such a question I think is very

limiting and hypocritical, to say the least. We have other nationalities that would confer citizenship based on birth. And so we could have someone that was born outside of the Cayman Islands. For example, during the period of economic difficulty in Cayman when many of our fathers went off to sea to provide for a better life for our families, there were some of us who (through no control of our own) were born outside of the Cayman Islands. Being born there to Caymanian parents who, as quickly after birth as possible, decided to move their family back to the Cayman Islands; who helped in building the Cayman Islands by going off to sea and sending back money to the Islands—I think it is hypocritical to even discuss that that should remove someone from having the possibility of running for office and to make mention of the fact that only people who have Caymanian status or people who were born in Cayman should be able to run for office.

We as a country do not give status based on birth. So, are we then saying that everyone born in Cayman should have the right to run for office in the Cayman Islands? Because that would be a bit different than how it currently exists where we have people born in Cayman but are not even considered to be Caymanians. How could we then discriminate against someone who was born elsewhere if they satisfy all the requirements to have Caymanian status?

Madam Speaker, even though all attempts were made going house to house and trying to get signatures, the fact that only 7,000 out of 40,000 people gave their support, it is obvious that the majority of the people in Cayman do not support and do not see these issues as being nationally important.

I am reminded that there are not only 40,000—that was 40,000 residents—but there are indications to show that there were also tourists that were allowed to sign the referendum. So, the number would go a lot higher than 40,000 if we took that into account. Actually on any cruise ship day the People for Referendum could have simply gone down by the dock and got some signatures there. Sometimes we get about 10,000 people coming off the cruise ships.

Madam Speaker, on the question of the Referendum these six points of national importance—when there is so much concern in the country, I really find it difficult to justify spending \$500,000 on a referendum to tell me whether or not the Speaker of the Legislative Assembly should be chosen from outside the elected membership?

I was in my MLA Office on Wednesday when a lady came to see me. She had fears of losing her house because she is only making \$2.65 an hour. When they come to ask for my help to get a job for their sons because they are graduating from school; when a lady comes to me with her three children who are living in a house with a roof that leaks and when it rains sometimes the house gets flooded . . . How can I justify to those people spending \$500,000 or more of the Government's money on a referendum for these

six issues? We would have to borrow the money to do it. This is not in the Budget.

How could I justify borrowing at least \$500,000 for this? In all honesty if we were to leave these six questions; if we were to say to the United Kingdom *'we cannot find satisfaction, let us leave them as they are, let us leave them status quo'*, which one of these six items would affect the way that any of our people live, whether negatively or positively?

As a good Government how could I justify being part and parcel of a Government that would spend \$500,000 on a referendum instead of using that money to provide our young people with scholarships to further their education? How could I justify not using that money to help our needy; the seamen and the veterans that help build the country that we have had to take off the list of the little stipend that some of them depend solely on to survive?

How in the world could we as representatives of the people justify for those six questions? We could use that money to provide better classrooms for our children's education; to provide counselling for the many young lives that are being lost to drugs; to help our young parents deal with teenage pregnancies; to put more Police in the districts to deal with crime; to provide the much needed vocational training for our future generations; to provide housing for our people that are living in squalor and poverty; to provide after school programs to keep our young people off the street; to provide training in the tourism sector to ensure that our visitors to the Cayman Islands have a good experience and that they want to come back and spend money and use it to provide good health services to our people, et cetera.

There is no way that with the proposed changes to the Constitution; with the fact that the Opposition and the Government agree on all the major points of the Constitution . . . on these six issues we seem to have a bit of disagreement. But that disagreement should not equate to instability in the country; it should not equate to us running away the foreign investors; it should not equate to people marching up and down the streets with wheelbarrows and ground baskets. As responsible representatives we need to be able to do a better job of coming together and facing the issues together.

We need to provide a strong footing for Cayman at this time when there are concerns and questions to our stability. We need to show the outside investors and the visitors that are coming here that Cayman is safe and stable.

The UDP has gone throughout all of the districts and spoken to many people. And believe it or not the people have said that with all of the issues that are facing the country we are spending too much time on the Constitution. There are only six points of contention. It is time for us to sit with the Opposition (supposedly the people's representatives) and get pass those six points so that our Ministers who were

elected can get back into the Glass House and do the work that is required of them.

We do not want a year from now—or maybe the Opposition does want a year from now to get up and ask what the Government has done. Maybe that is the whole reason for this 'stalemate' position. Maybe they see their interests as being better served by continuing this debate on the Constitution so that none of the other issues are addressed. But I would like to believe that even as radical as the picture that I painted a little while ago, and even as irresponsible as I sometimes feel that those other Elected Members are, I still believe that they do not genuinely want the affairs of the country to go unattended. I feel that we must be able to get together but it is going to be real difficult to achieve that when we have something as important as this debate and the [Opposition] Members refusing to attend.

Mention was made a few days ago to the fact that the Opposition Members do not even come to have tea. We only have one Common Room in this Legislative Assembly and as far as I understand (I have not been here for a long time) the norm has always been that all Members meet in the Common Room. They eat and watch television, they talk, joke, row a little bit, but they were all able to spend time together. I know that it has had a positive effect on the relationship that I have gained with some of the Members because upon getting elected and coming here there were some of the Members that I hardly knew. And during the period of time of spending eight hours a day and nine hours a day and spending the little breaks in-between with those Members I was able to build relationships. You would be able to put aside some of the differences. But since the 8 November we started on a different trend where the Members of the Opposition do not even come in the room and if that was not bad enough they have now refused to come into the building.

Madam Speaker, it is really going to be difficult for us to have any kind of real debate. We were looking forward to the debate. We feel that we have just as strong debaters on this side as they have on that side. We feel that we do not win the debates based on numbers. We can win the debate on the quality of the debate and that is why we were confident in changing the motion to be a motion to take note so that the numbers would be nullified. The fact that we have nine Members and they have five would not make any difference. Let us win the debate on the merits of our debate. And then they got up and said, *'Well we cannot debate it because the Speaker suspended us.'* So, we said alright we will adjourn the House and change the rules to make sure that they could play the game.

But they still decided to carry on. I can remember going to play football and we did not all have balls at the time. So, there was only one child that had the balls and we would beat that child or score a goal on his team. What he would do to punish you is that

he would take up the ball run home so no one else would get to play. Now, those are the little things that I remember from my childhood. I did not expect to get elected to come here and get the same kind of actions by the representatives—the people that were elected by the people to represent them; the people that take so much pride in saying that they are the people's representatives; that they represent the majority and yet they cannot come in here and debate.

I heard someone on the Talk show this morning saying that it is embarrassing to hear the debate that was carrying on. What is going to be real embarrassing for me is when the *Hansards* [reports] go to the United Kingdom Government and they see that there was no debate at all from the Opposition. The Opposition refused to come to the Legislative Assembly.

Now, I could understand if the Opposition just chose not to debate, but they take any opportunity to debate this issue in public at whatever location they find themselves. Yet they are not willing to debate it in the House of debate! If I had (it so happens that I did not) voted for any of those Members I would feel short-changed. I would feel that I am not getting representation.

In closing, Madam Speaker, I have a little recommendation: It appears that we have a group called the People for Referendum whose intent is, supposedly, to express the wishes of the people. Maybe they should go out on a referendum to find out whether the people want a refund on the salaries of those people that are not representing them in the Legislative Assembly. Maybe those people who are boycotting and deciding that their job is to debate the issues somewhere else, the People for Referendum should ask the question of the populace whether or not they feel that that is good representation.

The issue of the Constitution . . .

The Speaker: You have 10 minutes remaining.

Mr. Cline A. Glidden Jr: Yes, Madam Speaker, I do not expect to take that long.

The issue of the Constitution has been here for a while. We debated that issue during the 2000 Election. One of the lady candidates in West Bay based her whole campaign on her prowess of the Constitution. Before the Election when the White Paper came out, we brought guests down to explain the ramifications of the White Paper and what should be expected from the UK. The Constitution Report, as we all agree, is a very good document. It is a document that will move the Cayman Islands forward constitutionally. We all support the modernisation—both sides of the House and the majority of people. There is an old saying about *'throwing out the baby with the bath water'* and that is what we need to be aware of. If we recognise that the Constitution Modernisation is what we need and we only have a very limited . . . Even if we do not agree on the national importance of those

six issues, but we do place some importance, they should not stagnate the country from gaining the benefits of a modern Constitution.

My request is that the Opposition Members and the Government try to put politics aside and work together in some way. We have expressed our willingness to do such. The Leader of Government Business has expressed the invitation to those Members to form a part of a delegation to go to the United Kingdom to discuss the contentious issues. But in the same confrontational style instead of them accepting the invitation they are saying, *'No we cannot go. You bring the people from the UK here!'* — Just in an attempt to be confrontational!

I can only hope that time will show to the Opposition Members that they can be much more useful and constructive than they have exercised in the past. I do feel that they have a responsibility to offer constructive criticisms and options to the Government.

But, Madam Speaker, this kind of representation I dare say is not helping any one; it is not helping the Cayman Islands. Even though those Members may have seen this as being politically expedient at this time, hopefully, time will show them that even though they were gaining the mileage the tide is now changing. Hopefully, people are starting to understand that the UDP are not dictators; that the UDP is offering good representation for the people. And I think that with a good Government like the UDP, working together with a credible Opposition, the country has a lot to benefit from. I look forward to playing my part in moving the country forward.

Thank you, Madam Speaker.

The Speaker: Thank you. Is it the intention for another Member to commence debate? or may I have the motion for the adjournment at this time?

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, we propose to adjourn this Honourable House until 10 am Wednesday, 26 June 2002.

The Speaker: Thank you. The question is that this Honourable House do now adjourn until 10 am Wednesday, 26 June 2002. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 6 pm the House adjourned until 10 am Wednesday, 26 June 2002.

OFFICIAL HANSARD REPORT
WEDNESDAY
26 JUNE 2002
10.55 AM
Seventh Sitting

The Speaker: I will now invite the Honourable Minister responsible for Education to grace us with prayers.

PRAYERS

Hon. Roy Bodden: Let us pray.

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

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

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

Let us say the Lord's Prayer together:

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

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

Proceedings resumed at 10.58 am

The Speaker: Please be seated. Proceedings are resumed.

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

Apologies

The Speaker: I have received apologies for the late attendance of the Honourable Third Official Member

as well as for the absence of the Third Elected Member from the district of Bodden Town who is still apparently off the Island with his wife for medical reasons.

I have also received apologies from the Leader of Government Business who is off the Island attending a family member's funeral.

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

The Speaker: I have received no notice for Statements for this sitting.

GOVERNMENT BUSINESS

**Amended Motion to Debate and Take Note of the
Report of the Constitutional Modernisation Review
Commissioners 2002**

(Continuation of debate thereon)

The Speaker: The debate is now open for continuation. Does any other Member wish to speak? The Honourable Minister responsible for Education.

Hon. Roy Bodden: Thank you, Madam Speaker.

It is almost true to say that there has not been such contention and furor on earth since *Prometheus stole fire from the gods and gave it to man*, as there has been in the Cayman Islands over the recent tabling of the Constitutional Commissioners' Report.

That furor and all of the attention which has been aroused by the tabling of that Report is not in and of itself, bad, disconcerting or alarming. Rather, what is disconcerting and alarming is all the misinformation – misguided motives and the deliberate attempts to mislead the public by what I would term 'mischievous elements', who seek for their own aggrandizement, warped and untoward intentions, to take advantage of the sentiments of a concerned public.

There has been little or no attempt by the Opposition elements, both inside the Honourable Legislative Assembly and their supporters outside, to offer truly informative and uplifting debate so that the public may be informed and maybe made wiser in their choices and understanding of the process. Perhaps this reflection [goes back] to the past where political directorates and elements, when it suited them, sought to give certain twists and slants so that they could gain an advantage, sometimes most unfairly over the other per-

sons who propounded the obverse arguments. But this is no time for political 'one-upmanship'. This is a serious time because the Government needs to get this business of the Constitution behind it so that we can concentrate on governing the country in a way that is beneficial to the majority of its citizens, particularly in these challenging economic times.

I have to remark that Cayman – in spite of all of the down-crying that I hear from certain people; in spite of the cries of the Government being undemocratic and unsympathetic—is still one of the most open societies in the world. For there are persons who live Monday to Friday to get on the talk shows: they open on the earliest one and go on to the second one and finally wind up on Talk Today at the Government station. People are blaming the Government saying that the Government is undemocratic. Some of the comments I have heard about Government Ministers and accusations made about your Honourable self would only be tolerated in a society like the Cayman Islands. It is downright disgraceful and unacceptable! And yet these people persist! But what is alarming to me is that many of these comments are made for and on behalf of the Opposition Members in this House, who choose at this particular point to abnegate themselves from the responsibility of coming in here representing, as they claim, the majority—by boycotting!

Madam Speaker, it is gross irresponsibility and I hope that the persons whom they purport to support take note that when their representatives should be in here articulating, debating and defending their positions, they are absent by choice. I find it alarming and I have to remark that this is the introduction of political tribalism into the Cayman Islands and it should not be allowed to take root.

From the time I have been here this is the first that I have seen persistence of this nature: People threatening violence; people passing all sorts of uncomplimentary remarks about Members of this Honourable House; about yourself, Madam Speaker. It is the height of disrespect. And any element, be that element an individual or an agglomeration of individuals, that tolerates and encourages this kind of behaviour is doing the Cayman Islands a grave disservice.

Madam Speaker, I say this soberly and under advisement. You know what it reminds me of? I shall tell you from the annals of history what it reminds me of. It reminds me of the beginning of this kind of politics in Jamaica in the 1960s when a fiery brash young man got up saying that he would *fight fire with fire* and it would be *blood for blood and stone for stone*. And wisened old Norman Manley got up and said, *'Who is this young brash person introducing these kinds of politics that is foreign to the nature of the political society? Will no one stand with me to rid this country of this brand of insidious politics that is threatening to creep into our society?'*

Now, Madam Speaker, I hear them say that they have to have 'one man, one vote' because they do not want the Leader of Government Business

bringing in four people 'on his back'. 'One man, one vote' is the essence of democracy, I agree, but what we have to consider is that 'one man, one vote' is not the panacea. There are many other things to consider. None of the advocates who are advocating this separation of the electoral districts as they are presently into 17 constituencies—I have heard no one articulate the economics of this exercise because the economics are going to change drastically. For then you are going to have 17 constituencies; it is expected that you are going to have 17 constituency offices; it is expected that those constituency offices will have to be manned. So, now not only have you 17 different Members, but those Members are going to have to service their constituencies by holding surgeries; they are going to have to have persons in the office available either on full or part time basis, and they are going to have to have a physical presence.

Now, is anyone calculating how much more expensive that is going to be on the coffers of the country? There are other areas to consider and I tell people that we are going to come face to face with certain stark realities which are not facing us now if we opt for this 'one man, one vote'. How are we going to divide the constituencies so as to totally eliminate having constituencies which are all black or all white, which are rich obviously and which are poor obviously? These are contingencies, which we do not have to face under the current system. There are social, political and economic consequences. Are we considering these? For these kinds of divisions have been the root cause of political upheaval in other jurisdictions. And then there is going to be the constant call for changing constituency boundaries and accusations of gerrymandering.

Madam Speaker, I am saying that it is the ideal objective to aspire to 'one man, one vote' and in the Cayman Islands we already have some examples and perhaps we should consider it. But I am also saying that any consideration should be tempered by the fact that we need not hasten into that. We should first articulate and ensure that the divisions are going to be of the greatest benefit for the constituents.

Madam Speaker, I will give you a sociological phenomenon too: People in the Cayman Islands vote personality above all else; above education; above good looks; even in some instances, above wealth. When you divide a country or a jurisdiction without taking into consideration these kinds of contingencies, what kinds of divisions are you going to have? You are likely to have people who refuse to participate in the system because the people they like and have been supporting have been so disadvantaged now that they can no longer represent a certain area.

Madam Speaker, I think we should take it one step at a time. What we need to do is concentrate on the development of party politics and ensure that another party comes up to balance the present United Democratic Party (UDP) and continue on the slow pace at which we have been going.

I want to say also that I have heard people, even on the talk show this morning, talking about term limits. From the time you speak of things like term limits in a small jurisdiction like the Cayman Islands, you are disenfranchising several people. We are not like the United States with three hundred million people that you can say no president should serve longer than two consecutive terms. They have 'umpteen' people with the qualifications, the ability and the disposition to make the sacrifice to set themselves up to run for president.

But in the Cayman Islands there is a limit to the pool from which people come forward for public office. I think in a democracy the greatest limitation is held in the hands of the people themselves. You set yourself up for public office and if the people do not want you they will not elect you, irrespective of how well qualified you are, irrespective of how wealthy or pretty or handsome you might be: that is the greatest limiter of any tenure in politics and in any democracy.

I recall during the Constitutional Review in which Commissioners Walter Wallace and Sir Frederick Smith undertook. The question arose then as to term limits. They made it quite plain: In a jurisdiction like the Cayman Islands it is almost ridiculous to impose term limits because you are drawing from a small pool. Secondly, they argued that the voters are the greatest determinant of how long anyone will stay in politics. If you convince them that you are efficient they will keep returning you. So, we have to be careful.

As I listen, it is difficult for me not to get emotional about certain things. Sometimes I wonder about the genuineness of people who set themselves up to be advisors and consultants. I pose a simple question: There are people who I hear on every talk show yet they do not participate in the process. They have voluntarily chosen to extricate themselves from the process of voting and participating in a representative democracy. They claim that they will have no part in an elected dictatorship yet they are the premiere advisors, advising people on what to do – experts on referendum. But they themselves do not participate. Only in the Cayman Islands would such persons be regarded as genuine . . . believe me.

Madam Speaker, a profound change is taking place in the Caymanian society and this change has been occurring for some time now but it is just now reaching its zenith. It has its genesis in the fact that the economics are changing. The Cayman Islands, whether we like it or not, are moving away from a society in which finance and financial affairs was the imperative to a society where service and service orientated industries are appearing to be the imperative. And by that very nature the behaviour of the population will change. It is going to change in a way that the movers and shakers of the past will not necessarily any longer have a monopoly on the movement and shaking of the society.

Caymanian people from the grass roots, through the middle class and straight to the top tier are taking more interest in the country and its well-being. The middle class itself, by virtue of the fact that we have a steady pool of young Caymanians going abroad to universities and coming back, is changing. The middle class is becoming vibrant; they are becoming competitive; they are becoming demanding; they are becoming discriminating and they are becoming interested in how the country is being governed.

No one seems to want to acknowledge that the Cayman Islands, just like many other Caribbean societies, has its tinge of class and racism. I have reason to believe (and I say this as a commentator without fear of successful contradiction) as I listen and read the nuances of the positions of many of the persons who object that their positions are not a little influenced by the fact that they realise that the society is changing in a way which they were not accustomed; that the children of the middle classes; that people who are dark of the sun are coming to prominence, power and position.

But no one talks about how many persons you have in the Government who are college or university educated or who are experienced. They only talk about, *'Can you imagine being led by so and so?'* We have to shed those prejudices. Even in the deepest South they have shed them; even in apartheid South Africa those kinds of prejudices no longer exist. I am saying that part of the basis for the objection is not necessarily exclusive about referendum, or the need thereto, or about the Chief Minister, it is about *who* has chance to be. Can you imagine? I have friends who may be of the colour but do not share the sympathy, and they tell me, *'There is a sense of non-genuineness about some of the objections, Roy, because it has nothing to do with ability but rather has a lot to do with colour and class'*. Madam Speaker, you cannot blame us if our parents had the foresight to stress education. It is time that we put aside these differences and get on genuinely with the direction in which the country should move.

Madam Speaker, I cringe when attempts are made to politicise the Civil Service. The Civil Service under the White Hall Westminster system is neutral, faceless, impartial, and it should be efficient. The Civil Service mandarins should be willing to serve whoever comes in as a political directorate dispassionately, efficiently. They should not care. Politicians come and go.

Their job is to ensure that the government bureaucracy runs efficiently. There should be no sentiments attaching them to anyone. I do not see any clause in *'Adam's Will'*. I have not read anywhere in the Bible that says the Civil Service should only be loyal to this person or that political directorate. Even experts more eminent than I, concur that this is the essence of the White Hall Westminster system. The British have always left a legacy and it is only where that legacy has been broken by partiality and by loy-

alty to a certain element that the society has broken down. Anywhere else the society runs efficiently.

I would like to quote from a text called, "*Winner Takes All*". *The Westminster Experience in the Caribbean*, written by Selvin Douglas Ryan. On page 2 this is what he says about the Westminster White Hall paradigm. **"The model assumes that officials who administer the state, and whose role in the main is a regulatory one, would not have to be replaced when power changes hands, but would loyally serve the incoming political elite. It is in fact assumed that civil service mandarins would already have made themselves familiar with the basic policy prescriptions of those challenging the ruling party, and would have put themselves in a state of readiness to implement their manifesto or parts thereof should they become the newly elected government. They would also, as a matter of course, have prepared briefing papers in the event that there was a change of government. In short, they would not assume that the party in power had a permanent stranglehold on the reins of power or that it was 'the natural party of government'".**

The converse is also true: They should not assume that the Opposition is necessarily the replacement in the immediate of the government and be disloyal to the government or the political directorate in power. Selvin Douglas Ryan goes on to say, **"Most important is the assumption that the society is socially and institutionally homogenous and that its basic values, myths and codes are widely, if not universally shared. Political change is therefore about tinkering and making marginal or incremental adjustments to a system in which the fundamentals are agreed upon and where there exist no major sub-cultural cleavages or violently opposed and partisan tribes"**. That is a characteristic of the Westminster White Hall model or paradigm. That is also characteristic of the model under which we operate in the Cayman Islands.

Therefore, how can it be that persons who by their pristine asseverations set themselves up to be the guardians and the protectors of the people's right; tramp around from jurisdiction to jurisdiction saying otherwise; accusing the government of not allowing them full time to express their opinions; whipping up the people, taking polls and censuses about referendum issues which are not clearly demarcated and which are clouded in ambiguity. Madam Speaker, these persons are misleading the country and the majority of people should not follow them. I remain to be convinced that they have the majority of persons following them.

As far as this Report of the Constitutional Commissioners is concerned, the Checklist has been followed. People were allowed opportunity; the United Democratic Party Government extended the consultation period; persons were invited by the Constitutional

Commissioners and were given 'umpteens' chances to express their positions.

We are nearing the point where we have to put debate, discourse and discussion to rest and get on with the business of sending the document and the relevant Hansard debates to the United Kingdom for the formation of a Draft Constitution. When this Draft is received I would expect if practice and procedure are adhered to, that there would be further discussion as to what we are going to adapt and when. And then we get on with the process.

The Opposition, however, seems to be caught up in a never-ending spiral of stymieing the process and crying '*foul*' anytime they believe that they are not having their way.

There is another attempt on the part of the Opposition. And when I say *Opposition* I am including the *legitimate* Opposition inside the Legislative Assembly – although they are boycotting at this moment – and their followers outside. I am disturbed at their attempt to involve His Excellency the Governor. The Governor cannot rescue them and if they knew about the functioning of the Westminster White Hall paradigm they would not even try to include the Office of the Governor – they would not try to gray the area by saying that they are calling upon the Governor.

The Governor's responsibility, in this instance, is to ensure that peace, order and good government prevail; that the government of which he sits as head (president) of the Executive Council has a majority, so what when we come here with legislation we have the requisite numbers to pass it. But until that time, what transpires in the Legislative Assembly, the Governor has his hands off, especially if it complies with parliamentary procedure.

I see them now calling and writing to the Governor. I heard one of the representatives this morning on a talk show [saying] that he is writing to the Governor. Well, that is a good exercise to keep the Governor apprised, and I am happy that they are doing that, but I hope that they are not expecting the Office of Governor to interfere in what is to this point, an orderly and understandable process under the Westminster system.

Madam Speaker, Government and Opposition both went to the people. Both espoused their sides in the public forum. It was expected that those treks and those trips and that exposure would climax in a debate in this Legislative Assembly. Let me tell you why the Motion has to say '*debate and take note*'. It has to ask that the Review be debated and note be taken because not all of the points put forward by the Constitutional Commissioners met with full and total agreement of the Government. Neither did all of these points meet full and total agreement from the Opposition. Therefore, to have done otherwise, would have meant locking one's self in a position in which there was no room to maneuver.

We have to debate and take note because there are certain issues that we accept and there are certain ones that we do not accept. Debate at this

time allows us to say what we accept and why, and what we do not accept and why we do not accept it. The results of these debates will then go to the United Kingdom for their constitutional and legal advisors to read and to say in our draft, "Here is what we need to take note of; *this is what they accepted; this is what they rejected; this is what we are going to send in a draft*". That is the reason and it is a perfectly sound reason.

I have to interject at this point that I believe the Constitutional Commissioners were fair and forthright in what they did and their exercise is a commendable one. They have given us a document which is a basis for us to launch forth. The Opposition is also trying to make people believe that the Draft Constitution which the Commissioners forwarded is *the* Constitution. It is not, Madam Speaker! It is not! It is their model! It is meant to be a basis for discussion and nothing else.

Certainly the people at the Foreign and Commonwealth Office are not going to stamp their approval on that and send it back and say '*Here is the Constitutional draft*'. I would be very surprised. They are going to take that along with other parts of the Review, as well as the Hansard [debates] and any other depositions that they may receive, and from that they are going to extricate points upon which to use as a Draft Constitution. That is the way it was done when we had the review in the 1990s.

But I am happy that there has been this furor; such emotionalism; because until the events of the 8 November and the launch of the United Democratic Party, Caymanian people had looked upon politics as nothing more than a necessary evil. And they 'took it or left it' in the most part, that is, except for the six-week period from September to mid-November when we had elections (every four years). Now, Caymanian people have come to the reality that politics is life; that politics happen every day; that they should be interested in the Government every day; that they should be interested in the persons who represent them every day of the year. For that is life and that is how it is done in sophisticated societies. So if nothing else is achieved, it has brought us in Cayman to the point where we have been forced to mature; to take an interest in the government; in the people who represent us and in what they do.

But, Madam Speaker, I am alarmed at the behaviour [of those] elements who seem intent on exaggerating the differences between us rather than accentuating the similarities. And there are those persons who, for their own selfish motives, would focus on the differences; would try to make it seem like those persons who are in Government are some evil creatures—some ogres—who do not deserve to be there. And only they and their supporters and followers have a monopoly on what to do and what is right. Why, Madam Speaker? Why is this being perpetuated? What is wrong with Members of the Govern-

ment [*inaudible - voice faded from microphone*]? I am alarmed at the behaviour, Madam Speaker.

Some of these people are exhibiting their prejudices every day they call on the radio station; personalising, tracing persons background and then they come and tell me, '*Oh Roy, it is not you, we do not think of you like that*'. But I am in the company of the persons who they are describing and putting down! Do they believe that I am so ignorant that I do not think that when they are out of my earshot that they do not include me in the group? Madam Speaker, I am not so naïve. My parents did not give birth to any idiots. So, I cannot accept that.

I do not hear them talking about positive steps the Government is making. I do not hear them saying, '*What a tolerant government, we put them down everyday on the talk show and they still strive diligently to make the country operate in the way that it should operate. And they do not victimise us and they do not single us out for official opprobrium*'.

As far as I can glean, much of the content of a majority of the callers are little more than political 'hog wash'. There is plenty of talk and there is no shortage of those persons whom I describe as '*presumptuous elites*' who put themselves forward to represent special interest. But they come from a background that has little of what Alexander Pope talked about.

There are those persons to whom a little learning is a dangerous thing and they try to mislead and to perpetuate and they talk about referendum. And they quote, Madam Speaker—as I saw a double-page flyer in a paper about those who supported referendum. I am one of the foremost proponents of a referendum just like I am one of the foremost proponents of the office of Ombudsman, and the Bill of Rights, and the Freedom of Information Act! I still stand by those positions but I say that the six questions that I read being put forward by the Opposition are not national issues, therefore, they are not fit to be subjects of a referendum.

While on this, let me as Minister of Education say I shudder when I hear people talk about 'referendum'. The last time I checked my dictionary, which was before I left the Ministry this morning, I did not see any such word as 'referandum'. [The word] is referendum if it is one; if it is more than one, it is referenda. So, I wish they would use the English the way they should use it and the way it exists. I am not a snob but when people come to me and they cannot pronounce the word in the way it should be pronounced they certainly are in no position to advise me or to dictate terms to me.

It is not a question of the Government being against referendum but the Government is wise and correct to appropriate the posture that it has put forward. And the behaviour further alarms me because it makes me realise that we have been remiss in not educating and informing our people as to what is appropriate conduct, including appropriate conduct in Parliament. I was taken aback by the fact that the Op-

position would be so irresponsible as to populate the Chamber with their supporters and not to inform them of the rules of conduct in the House.

I heard some comments that all I could say is *'My, my, my, I have been remiss in my obligations'*. Because this Legislative Assembly and the House of Parliament has a code of behaviour to which all and sundry have to subscribe. It is indeed the House in which you, as Speaker, are in charge. Even myself as a Member have to show respect and behave with decorum to the Chair at all times. Indeed, were you to tell me to sit now I should have no choice but to sit. How much more so then that persons who are not Members, should have to subscribe? Of course, it is their House; of course we are their representatives because they put us here, but it does not mean that because it is their House they should come and order you around or take over the House. Then, procedure would have broken down; sanity would have been lost and anarchy would have been the order of the day. That is why we have Standing Orders—which are the rules governing the behaviour and conduct of the Parliament, including conduct of debate—that we refer to from time to time. And when our Standing Orders are silent we refer ultimately to Erskine May, the 'bible of behaviour' in the Legislative Assembly.

Of course, visitors are welcome to sit in the gallery but not to take notes and make noise, and even to intimidate Members by harsh looks. In some jurisdictions in which I have been resident, to get into the Parliament without being introduced by a member or an officer of the House would be an exercise in itself. By the time you get through the security and explain who you are—unless it was a prearranged visit but for someone to come off the street, you could not just walk in. I am happy that we can do that here; that our people can come in as they wish, to see their representatives. But I am surprised at some of the caliber people that I heard making snide remarks, passing disparaging comments and belittling their representatives. Madam Speaker, do they not realise it is a reflection upon their very selves? Are they not voters? When they discriminate and trace and belittle is that not saying something about their mentality? About their attitude and the level of their intelligence? We should not, in the interest of democracy, resort to that.

On the day that the petition was handed in I heard some people shout, *'Yeah two more years'*. I can only speak for myself: Everyday I give thanks for the people of Bodden Town for I am only here because they have entrusted me. It is not any seat that I have ownership of; it is not any seat that I bought or any seat that was passed down to me through heredity. It is a seat which I hold in trust and I know, because we discuss, that all of the Members of the United Democratic Party know that and feel the same way. We are grateful, respectful and obligated to our constituents (the voters) who put us here. But because they have put us here is no reason for them to in turn curse us and threaten us. Yes, threaten . . .

because there were those in the crowd who said that they should run a bulldozer through this House; who said that they should *'put a bomb in their car'*. It is alarming!

I am displeased and hurt. I would like this to be noted: We did not go to the police with any comments because these people can be identified . . . I know them. We prefer to turn the other cheek and say probably it was said in the heat and frustration of the exercise. I pick up the newspaper and see them plain as daylight up front. But you know what is the paradox? Those are the same people who come to us with their complaints seeking favours and wanting us to mediate and help, and we help them. We do not change and say *'Well what about the other day?'* Heaven forbid.

So, I want to say that it is democratic to express a position. It is commendable when you have a belief and hold firm to that belief. That is what democracy is about but it is undemocratic, unhelpful and destructive when you curse, slander and threaten your representatives, irrespective of whether there was a personal vote or not. And that can only malign and destroy the society. The Government is responsible; we have been responsible. There are persons who support us who wanted to demonstrate too in our support and we said, *'No, it is not necessary at this time'*. We do not wish any confrontations. We are confident that our behaviour will prevail; that the positions we have taken will be seen in the end to be correct; to be appropriate; to be informed. We do not wish to be confrontational and we have exhibited mature behaviour because our arguments are sound, contained and controlled.

The Constitution is the single most important document of the country; it is indeed the soul of the nation. It is that document upon which all other laws hinge and emanate from. In a sense it must be almost sacred and sacrosanct but it should not be drafted in such a way that it is untouchable. It should always be made to work with the least interference. But that does not mean that in every situation it is going to prove as the ideal document,

So, Madam Speaker, I come to an important point: Why is it necessary to have a Constitution prefaced by a Bill of Rights? A Bill of Rights in its most fundamental definition protects the citizen against the government. It offers protection to the citizen against certain intrusions by the government: Freedom of speech; freedom of association; freedom of arbitrary arrest; freedom to own property. And these kinds of freedoms are entrenched so that the State which has a monopoly on the coercive force; which has a monopoly on the social control agencies cannot come in the middle of the night and kick your door down and drag you out of bed and say you are under arrest without due cause and convincing reason. The State cannot tell you that you are not free to associate. As the Minister of Human Resources people tell me that

they do not want trade unions in the country. I said, 'Excuse me!'

'Oh no, we do not need them here.'

I would have taken leave of my senses if I passed down any decree saying people were not free to associate or to form themselves into collective bargaining units if they so felt the reason.

'Oh well the Cayman Islands is not this kind of place, we have never had that.' Madam Speaker, these are different times. And I remember very well when it was first muted about a Bill of Rights. There were several objections then as there are now. But the Cayman Islands have international obligations. The world is globalised. We are but one part and we had better inform ourselves that we need to comply and that a Bill of Rights will have to be inclusive. It cannot give you certain freedoms and then arbitrarily exclude those, which some people by their very ignorance and prejudice do not wish included. No!

The Speaker: Honourable Member is this a convenient time for the morning break or would you wish to proceed?

Hon. Roy Bodden: Break . . . thank you.

The Speaker: Accordingly, we shall suspend for 15 minutes to accommodate our morning break.

Proceedings suspended at 11.50 am

Proceedings resumed at 12.21 pm

The Speaker: Please be seated. Proceedings are resumed. Continuation of the debate by the Honourable Minister responsible for Education. I am advised that there are 51 minutes remaining Honourable Minister.

Hon. Roy Bodden: Thank you, Madam Speaker.

In the time remaining I wish to specifically address certain matters which have arisen as a result of public meetings and of issues which I have gleaned from callers on the talk shows, as well as issues which have emanated as a result of Honourable Members' of the Legislative Assembly positions.

It is appropriate to begin with political disposition. I have reason to be alarmed at the behaviour of representatives of the people who get up in a public forum and proclaim that they are proud to be Right Wingers.

The political spectrum has two polls: The extreme left and the extreme right. The extreme right is commonly called the Right Winger. There are other refined distinctions and definitions. And of course, to the extreme left you have the Communist and various forms; the Maoist, et cetera. The accepted position on the political spectrum is the centre. So, you have reasonable people and reasonable government certainly in westernised democracies. And in many countries of

the world people would describe themselves as 'Centrist'. That means they are neither Left nor Right but in the centre. So, for people to get up and proclaim they are Right Wingers, according to my interpretation, that means they are similar to Slobodian Melosovich, Adolph Hitler, Mussolini, to name a few. Just like if someone said they are Leftist they would be of the bent of a Joseph Stalin or a Gracchus Babeuf or a Robespierre or some of these other persons who history has condemned.

Now, in the Cayman Islands you mean to tell me these kinds of persons who proclaim their affinity to the Right Wing; the Fascist, the Nazi—they have followers in Cayman? I am both surprised and alarmed. I certainly did not realise that there were any Right Winger Members of the Legislative Assembly. But all I can say is that there are yet many things that I need to learn that I am not aware of. And I keep learning. But I do not believe that it is any badge of pride for anyone in the Cayman Islands in this day and age to get up and say they are a Right Winger. I am alarmed that they had people in the crowd who cheered. For these are the people who are now appearing in Europe before war crimes tribunal in The Hague. These are the kinds of people who go down in history as terrors, suppressors of the people, destroyers of order and society.

I do not believe that our Constitutional Review necessitates such extremities one way or the other. And I know that the correct line to take is the line through the centre where the vast majority of people in western democracy in any open society whether it be from the west or east espoused. That is what I am saying . . . that is the reflection of the position that I support. That is why the position of the United Democratic Party is the appropriate position to take and that is why I support the Checklist.

Indeed, I am a signatory of the points put forward by the UDP as being the foundation and elements upon which a new Constitution must emanate. That leads me to discuss a point I heard this morning raised by a caller on a talk show. He is saying that we (the UDP Government) are dictating to the Foreign and Commonwealth Office (FCO) how we want this process to go. Madam Speaker, *where ignorance is bliss it is folly to be wise!* Can you imagine any of us on this side dictating to the FCO what we want done? What path we want followed? What procedures we would like to see? That person is most ill informed. I can assure that caller that in practice it works the other way.

So, that tells me that when the Opposition says they have the majority—first of all they do not have the majority. Secondly, the Opposition is at fault for not informing many of the followers as the UDP has through avenues opened to it like the Public Eye show that Dr. Frank McField hosts. We have tried to inform, not only our followers and supporters but also the general public as to these procedures.

It is wise to be discriminating and to listen carefully and to weigh and search before we blindly follow people who themselves, it would seem, have neglected to be self-informed. It is a cause for concern because it strikes me that some people believe that the monopoly on political leadership must not be based on the qualifications, formal or even informal, or experience in government service, or ability to serve. But rather on other criterion. Perhaps they would like to see birth and status and all that thing.

It is our duty as responsible Members of the Legislative Assembly who put ourselves forward to educate and inform our people. Madam Speaker, Honourable Members and yourself must be tired of hearing me quote Edmond Burke, but I like Edmond Burke and on these occasions he is one of the historical figures I like to draw upon. This is what this quintessential historian and representative of the people had to say about leadership and the behaviour of persons like us in times like this: **“Your representative owes you not his industry only, but his judgement; and he betrays instead of serving you if he sacrifices it to your opinion.”** I say this to say that the Leader of the Opposition has said he does not have an opinion on the Constitution, he is waiting to hear from the people.

The Speaker: Honourable Member before you proceed would it be befitting to request for a photocopy to be made since it was a verbatim quote for the future records of Parliament for you to lay it on the Table?

Hon. Roy Boddan: Madam Speaker, I shall be happy to do that but this little book I just read from is my book of quotations. When I read other books and find these quotations I write them down in this book but I have the source at home and I shall be glad to bring it tomorrow, Madam Speaker. Thank you.

So, if a representative is waiting to hear from his constituents their opinions—can you imagine fifteen hundred different opinions? How am I going to come here and represent my people if I do not have a basis upon which to inform them? The reason they elected me is because they trust my judgment. Of course they inform me of their positions and I must temper my judgement on the feedback which I get from them. But the predication is that I will have a position of my own. It is impossible to speak to the majority of them every day so my being here as their representative is predicated upon the fact that I must have the ability and my own position, which will be largely reflective of theirs.

Indeed, I would think when we have meetings, as the UDP did, we let them know what our positions are and why we believe that such and such should be the case. So, the Opposition (as is to be expected) is not making good sense.

They have, through an organisation called People for a Referendum, attempted to poll the people . . . an ‘A’ for effort . . . that is good to have taken a

poll but here is what they expect will happen—a perpetual polling. They petitioned one day and we as Ministers of Government assembled in front of the Government Administration Building and received the petitions. I would have thought that upon the presentation and receipt of those petitions that would be the end of the exercise. For if we model it off our elections at the close of polls, whether you voted or you did not vote, that is the end. When that hour comes on that given day . . . too bad. The Elections Office did not say, *‘Well if you did not vote you can come tomorrow or the next day’*. So, I thought that when they delivered the petitions that was the end of the exercise, only to hear that they have eight hundred more and they have this hundred more. And so they must have thought that the Government would be [unmindful] as to be receiving them at their convenience without any cut off point. Not so. I am happy that that process has been, by their own admission, legitimate, transparent, accountable and acceptable. For the UDP Government in its wisdom requested of the Supervisor of Elections to enact measures appropriate to handle this business so that no one could say there were any improprieties.

I heard representatives on the talk show saying, *‘We are satisfied that the process is entirely acceptable’*. Madam Speaker, such is the nature of the Government; to be responsible, accountable and transparent.

But it is unrealistic to expect that the exercise would be extended to *ad infinitum*. There must be a cut off point. I emphasise this to show that the Government is not only responsible but it is also democratic, and contrary to what they are trying to purport, completely cooperative. But we cannot be expected to continue to receive petitions and so we await the findings of the officers from the Elections Office.

Then they say, *‘Oh no we did not give you any petition to send to the United Kingdom so you should not send them’*. Well, Madam Speaker, are they in this exercise or not? In my mind it would bolster their position to have the results included in the package to go to the United Kingdom. Are they fearful of something? I am now beginning to question their motives.

Now I understand why they did not amend the Motion as the Honourable Speaker recommended in order to have the debate in the first place. For the object of the exercise is not exposure, airing and debate, it is to stymie; stop; confuse; obfuscate and create disorder! You tell me if their intentions were honourable why are they not here now? Why are they not answering to these charges that I am laying? Why are they not here now espousing their positions, as we are our position? This is the House of debate, not outside; not in the Civic Centre in North Side; not in Ashton Ruddy Centre in Cayman Brac; not on the byways and highways and the Sea Inn and the Turtle Inns and all the other Inns . . . Here! in the Legislative Assembly of the Cayman Islands!

Their charges are unsubstantiated. We have extended the time and we have received their petitions and we did not drive them out of debating. So, when the exercise reaches finality and all this material goes to White Hall and their position and the people's position, whom they purport to represent, is excluded by virtue of their behaviour, what is their excuse? The persons whom they claim to represent should see through that. They should put pressure on them to say, *'Listen we are not pleased'. You voluntarily extricated yourself from being in a position to say what we were concerned about'*.

Madam Speaker, this is the first time that I have seen such action displayed in such an important issue as this. Even in the previous exercise since I have been here those Members who objected stayed and argued their points and expressed their objections. They did not, like a spoil brat, take the football put it under their arm and went home because a goal was scored on their team. That is really not mature behaviour.

I am glad that the UDP is of such a mind that we would not sacrifice the long-term objectives for the short-term goals of a false success. I am glad that we did not yield to their call unfounded for a referendum based on six hypothetical questions that could in no way pass as issues of national importance. I am glad that we did not entertain that and I am confident that when the count is made the results will bolster our position.

The Government has a mandate to govern and it should not yield that to an unorganised Opposition. The Government is abiding by parliamentary procedure; it is carrying on the business of the country in peacefulness and good order and it has the confidence of the majority of the people.

Madam Speaker, let me now turn to the challenges which I see facing us. As a UDP Government we must continue to stand by the Checklist that we have submitted. We must continue to encourage our supporters to stand behind us on these issues. We must continue to articulate these positions, which we have taken with the confidence that they are in the best interest of the long-term development of this country. We must also continue to avail ourselves of the opportunity to educate and inform our people.

I am happy to say that as Minister of Education, working in collaboration with the Ministry of Community Services, Youth, Sports, and Women's Affairs, we will be launching in November a citizenship education programme. We want to teach in the schools citizenship and human rights. We want to inform Caymanians, particularly the young, about the Constitution; about the type of Government it has; about civic and moral responsibility; about rights; about a plural society and the demands of a plural society; about how we have to be inclusive.

We knew for a long time that concerted efforts had to be made to rid the country of this void to let people understand there is nothing wrong with politics

and politicians; to let the people understand that government is a necessary instrument for orderly existence; that good people must set themselves forward to help them differentiate between the rabble-rousers and sincere performers.

Also, to help them understand and appreciate, that circumstances of birth and growing up does not necessarily mean that anyone is more advantaged or less advantaged than anyone else; and that the criterion is integrity, honesty, dedication and ability; and that there is no clause in *Adam's Will* that says anyone of any colour has a monopoly. Or, anyone of any wealth or standing has a monopoly more than anyone else.

I am glad that the UDP Government stands on the principle that it cannot accept the definition of citizenship, which the Constitutional Commissioners recommended, because we believe it is too narrow. We believe it must be more inclusive, we are more broad-minded than that and we would like to see that modified to be more reflective of the society as it is today. We have made attempts to address these challenges.

The Opposition, however, has challenges also and they have failed in the most obvious one: To be responsible for taking their position to debate and offer counter arguments. I would have welcomed the opportunity to sit down and listen to a Member of the Opposition take my arguments and refute them if they thought that necessary.

They also have challenges to participate in the education of the Caymanian society but they cannot do that by absenting themselves from the House of debate. They will not be effective if they only stand on the side of the road and *'susu'* with a couple of people. To put it in street *par lance* they are not ready.

The Opposition is not ready for responsibility; they cannot replace the Government. Apart from the fact that they are shy on numbers, their attitude is poor. They lack the maturity because you cannot be a good leader if you do not understand the position of a follower. You cannot be a representative of the majority if you squander the minority position and if you lack maturity.

Finally, *when the chickens have come home to roost* we shall have to ask ourselves whether we have done the people whom we purport to represent, a service by our behaviour; by our participation; by our willingness to learn by listening to one another; by our ability to convincingly put forward our points of view, or whether we have perpetuated the old *'Massa'* system as it existed in Caymanian society, by absenting ourselves and crying *'foul'* when we think we have the sympathy of the majority of people.

We shall have to ask ourselves *when the chickens have come home to roost* whether playing victim *persona* as it seems the Opposition Leader has taken on to himself, is in the best interest of the development of Caymanian society. Or, if it would not have been more appropriate; more representative and more beneficial to stand tall in here and listen to the

arguments put forward by the Government, and convincingly represent the people who have faith and trust in them.

Madam Speaker, the only way for the Cayman Islands to go at this point is to have a modern instrument of government—an instrument that takes us into the 21st century. We can no longer abide by the document, which allows us to form governments over a pot of breadfruit and turtle meat. Our people deserve to know from the time of going to the polls what is the likely position; who is likely to emerge. They need to be able to analyse the political manifestos of the various entities. You cannot wait until election when everyone is toing and froing and you cannot have this marriage of convenience or what my colleague, the Minister of Health, described as ‘an unholy alliance’ that is going to break asunder.

The people of the Cayman Islands have to be at the level of political maturity to know that leadership is bound to change. Even in the political party the members might say, ‘*Mr. Leader we do not have any confidence in your leadership*’. I posit, Madam Speaker, that if we had had a party structure what happened on the 8 November would never have been a public spectacle because we would have retired to the party headquarters. And the announcement would have been made that afternoon 5 o’clock or 6 o’clock by the public relations officer for the party saying ‘*Mr. X, after a party reshuffle, is now the Leader*’. We would have come here the next day—it would have been family business taken care of in house in the Party office.

Look at what happened to Margaret Thatcher, the most dynamic leader in the western world at the time when her Party members said, ‘*We are sorry Iron Lady we would like someone else to lead us now*’. So, there is no use in anyone trying to put forward the events of the 8 November. But the reason I am worried about it is because the prominent Member of the Opposition has been recorded to say, ‘*Let us take the power back that they took from us on the 8 November*.’ We did not take any power from anyone on the 8 November. That is why I question their motives. They do not want to participate sincerely in the constitutional exercise. What they want to do is to bring down the Government and call for new elections. But Madam Speaker, it shall not happen because we will not give them any reason. And I contend that the United Kingdom Government not wishing to set unanimous precedent will turn a deaf ear to their demands. The Government is functioning; we support Constitutional Modernisation and we have sent in our Checklist and we stand by them. So, let us now get on with the process. Thank you.

The Speaker: Honourable Member was that an indication that you are ready for the luncheon break or have you concluded?

Hon. Roy Bodden: No, Madam Speaker, I have concluded. Thank you.

The Speaker: We will now suspend for the luncheon break and reconvene at 2.30 pm.

Proceedings suspended at 1.07 pm

Proceedings resumed at 3.13 pm

The Speaker: Please be seated. Proceedings are resumed. The continuation of the debate. Does any other Member wish to speak? The Second Elected Member for Cayman Brac & Little Cayman.

Mr. Lyndon L. Martin: Good afternoon, Madam Speaker and all Honourable Members of the Legislative Assembly. I rise to make a short contribution to the most important debate in the history of the Cayman Islands, that is, the Motion for the Government to ‘take note’ on the Commissioners’ Report on the Constitution.

Like my colleagues who have preceded me I am equally disappointed that the Members of the People’s Progressive Movement (PPM) have decided not to fulfil their obligation to their constituents and to the people of this country by being here to debate this very important Motion.

I also take this opportunity to join with my colleagues in congratulating the Commissioners on doing an excellent job on a very daunting task, one of which the effort was to come to a consensus on what the populace of the Cayman Islands wanted on a topic that is seldom understood.

Madam Speaker, the constituents which you and I represent have always shown great interest on constitutional matters. From that perspective we have a great responsibility to fulfil our role as representatives: Educating the people on the changes of the subject of the Constitution and the Report of the Commissioners to all districts in our constituency; going on a series of five meetings dealing specifically with the Constitution. Even going into the high school on our Island and explaining the Commissioners’ Report and the impact.

I come now before the Honourable Legislative Assembly to represent the views that we have canvassed from our population and as the duly elected representatives for the sixth electoral districts that is something we can do: Represent the majority of the populace.

Madam Speaker, a Constitution is the framework that defines the relationship under which a government has with its people. In the context of the Cayman Islands, an Overseas Territory of the United Kingdom, it goes even further because it outlines the relationship under which we would have with the mother country, the United Kingdom.

In my contribution I will attempt to outline the framework under which we find this constitutional

modernisation exercise both in the context of the democratic evolution within the Cayman Islands, and also from the perspective of the change in the United Kingdom from being a great Empire to now being a member of the European Union; the fall of the Empire and now a Member State where decisions are not made in London but rather in Brussels; the United Kingdom now being obligated to various international Conventions and consequently, the Cayman Islands being part and parcel of those obligations.

Firstly, I would like to take a look at the change that the United Kingdom has experienced. In the 18th and 19th centuries great efforts were made at the building of an Empire. It was fashionable and power was determined by landmass and population. The UK found itself at the end of the 19th century as being the world's great power; an Empire on which the sun never set. Up until the 1940s the map used in Britain to educate its students was one that showed Great Britain at the centre and its Empire highlighted in pink to show the great prominence of the UK. However, that Empire has now changed but that Empire was built to determine and establish a source of cheap raw materials and also a source of market for the products and services of the UK.

The justification put forward for an Empire of this nature by the overlords of colonialism was one that was a white man's burden to care for less advanced civilisations. It is important that we understand the impact that this colonial mentality has had on the development of all British subjects. This submission that was made and so often articulated as the justification for the British Empire was strengthened during Winston Churchill's time as the Prime Minister of the UK, the magnificent leader who fought to maintain the Empire. But the white man's burden; the colonial racist attitude has always been part of colonial exploitation and repression of the grass root populace. That is a fundamental part of understanding the remainder of my contribution.

After the 1940s and the War under which the UK showed its might, the UK found itself where the maintenance of an Empire was extremely costly. Civilisations that were deemed to be less advanced started to become a little bit more educated and liberated, and started to seek destinies of their own. This resulted in the need of establishing strong military presence to maintain this Empire, and the War had placed taxes on the UK's revenue.

The UK had become dependent on loans from the United States of America. Then after Churchill and the reign of Atlee, there was a serious consensus shift under the Labour government, which resulted in an exorbitant amount of money being spent on social programmes. The UK was no longer able to maintain the Empire. The Empire slowly started to fade away and transformed itself. We find ourselves in the remaining countries that are attached constitutionally to the UK as being part of the Commonwealth.

It is my submission here today that the Commonwealth such as the Empire time is also challenged. The UK is seeing that the Commonwealth which meets twice annually to share ideas and debate uncommon issues—that again is a costly exercise and is starting to question the merits and benefits of having the Commonwealth.

The greatest challenge to the concept of the Commonwealth is the increased involvement of the UK in the European Union. You cannot serve two lords. The UK is now a Member State of the European Union and consequently has to bear the image and adhere to the statutes and conventions of the European Union. It is no longer an empire onto itself but now has found itself as part of a greater Empire that of the European Union.

So much of what occurs in the UK and the change in attitude and expectations have direct impact on the Cayman Islands. We must make ourselves well versed on the occurrences and the happenings in the UK. Madam Speaker, the UK now imports more than 50 per cent of its food products. It imports all raw materials with the exception of coal. And up until the 1970s it imported all its oil. The UK is a country with its own internal economic problems, and we will note through the future a continuation of this change where the UK will be looking more internally at its own problems.

We in the Cayman Islands have seen the White Paper (Partnership for Progress and Prosperity) where the UK has made it clear that it must be conscious of the contingent liability that its dependent territories face. They must take action to ensure that the governments are run in a manner that is not a liability to Great Britain. The Constitution (the framework that outlines that relationship) is directly relevant to this subject.

We must prepare ourselves as a nation to deal with the local and international challenges. We must take on an identity of our own. We as a nation, including our constituency of Cayman Brac and Little Cayman, have been the most patriotic part of the British Empire and the Commonwealth. And we remain committed because we as intelligent people see the benefits of being a British Overseas Territory—the added stability that it brings. But we do not control our entire destiny. We must monitor carefully the change in the country of Great Britain. And we must note that we are no longer a great asset; we are no longer of strong economic value so we must progress carefully with our negotiations and encounters with the UK.

Madam Speaker, the Labour Government that commenced the exercise following the failure of Churchill of breaking down the Empire is once more in power. We must look carefully on the Labour Government's philosophies; their approach to governance because it directly impacts us as a nation. I must make it quite clear (as stated in my manifesto and at every political meeting that I have had) that I firmly

believe that we must maintain our relationship with the UK as long as practically possible.

It is a two-side partnership and we might not control all of the cards, so let us be careful with some of the statements that we make. When we talk of democracy in this country we not only talk of the local democracy and our relationship with the populace but we must also consider that a fundamental part of maintaining our democracy and our stability is the relationship with the UK.

I cannot help but make note of recent times I have seen deterioration in the respect that has been exhibited by certain Members of the Parliament from the PPM in regards to the UK's representative in the Cayman Islands. I note—and I have stated this at public meetings—with interest the Second Elected Member from George Town when he stood in this Parliament, putting this Parliament through a very boring and non-enlightening story about a church service that he attended and a lady came to him crying that the Pastor was leaving. And his point was that she was not crying about the Pastor leaving but she was crying about what was to come. He made that analogy to that of the Governor leaving and his fear of the new Governor to come because as he stated, it seems to be that all governors that come keep getting worse and worse.

I note with interest the Third Elected Member from Bodden Town at his public meeting that he boasted of the fact that he did not show the past Governor any respect by going to the Airport to bid him farewell.

We must understand that in this Parliament the Mace represents the Queen and in this country the Governor is the Queen's representative. I am fearful that the radical nature being displayed by the PPM at this time when the UK is going through its own internal challenges will not be tolerated by our mother country: She will not tolerate continually being slapped in the face by Members of the PPM.

I would now like to turn to the local democracy. The situation that we find ourselves in today is so closely tied to the historical evolution. It alarms me that we find ourselves with a Government (Members of Executive Council) who collectively represent 72 years of parliamentary experience at the end of 2004. We have individuals here with their Masters and Doctorate degrees, a Government with a vast amount of experience and qualifications yet there is something that underpins a degree of resistance; something that prevents a certain portion of the populace to accept this Government. It is obviously not their experience and their qualifications.

Madam Speaker, I will try in this portion of my debate to highlight what I think are some of the underlying reasons why this Government is so unacceptable by a certain portion of the populace. We must remember from where we have come. We have come from a past of where our populace has had to be very

reliant on a particular class of the community that controlled a significant portion of the resources.

Our people had to go to sea to make a living whether it was from the days of turtling or from the merchant shipping. And the vessels were owned by this class. They had to leave their families behind who relied on the merchants to supply them with their daily needs based on credit, or as we term it 'trust'. And when the seaman returned he would settle the bill with the merchants. But on most occasions his bill was greater than his poor settlement, leaving him indebted to the merchant. And the merchant rejoiced at the situation. On many occasions debts were settled by the merchant convincing the hardworking seaman to give up his property and on most occasions at a value far less than what he could have gotten on an open market: going further to secure and embed the control that this particular class had in this country. In those days government was simply selected from among these individuals.

A statement made recently by the Members of the PPM is that 'Democracy is under trial' and that is so true. However, I do not agree with the Member from East End that '*Democracy is under trial and the UDP is in the judgment chair*'. No, democracy is under trial because the fundamental rule of democracy is being challenged: the majority rule. For they are accustomed to the days when this merchant class would have controlled the resources and were able to successfully indoctrinate and convince the seamen and the hardworking people (the grass root Caymanians) that there was some degree of superiority in this class. So often it was stated that they would have to be smart to become so rich. It created a culture in which our people felt subservient to the merchant class (the establishment) in this country. They felt a need that their first acquisition when they went to sea was a three-piece suit so that when they came home they could stand around and look like a merchant. That is what made them feel important. They wanted so much to be like a merchant.

This culture is not one that we left behind in the 1960s; this subservient behaviour is something that we continue to experience in this country in modern day. On the night of being elected after gaining my first success as being a representative, I started to feel the pressure of this establishment. They started to call me to say congratulations. Throughout the campaign they were not calling me but now they needed to maintain their control so I became of significance.

We are going through a shift in paradigm in this country and it is being met with resistance from those who would not benefit under the new paradigm as they have benefited under the old.

Madam speaker, we must understand that this referendum being sought on the Commissioners' Report is not all about the merits and demerits of those subjects. It is all about the shift in the power base from that of a few in the establishment to the majority in the

working class. The merchant class controlled the resources to get themselves elected.

They even for a long period in our history controlled the very tool that is necessary to liberate the poor man (the working class) to give him an opportunity to excel. They controlled the education system of the country and they did not like when people who make up this Government and people sharing our last names and colour started to get educated. They did not like the idea that the grandchildren of the seamen are now educated, experienced and ready to take up the reins to represent the people that represent the majority of this country. That is the problem at hand.

It was so evident when the 'turtle meat Government' was formed in 2000 that that Government included a representative from the Brac in the form of yourself, Madam Speaker. The concept of a government made up of Dr. Frank McField; yourself a member from Tiger Bay interacted with a Watering Place blood could not be possibly acceptable to a certain class in this community. So, we all know what happened: After the democratic process went through and a government was being formed, a selective few got together and placed pressure on those most vulnerable and made them change.

Madam Speaker, the First and Second Elected Members of George Town are the two Members that created this change that caved in to the pressures of the establishment in this country; the establishment that did not want to see the grandchildren of the seamen get power. That was such an awakening exercise and an important lesson for me.

Like most people in this country I would like to be able to say that we live in a society of racial harmony. It sounds very good but we are in racial harmony as long as we are subservient to the establishment. But once we find ourselves on this side of the hall representing the majority the harmony is no longer there. What is the problem? This racial and class segregation has gone to a point that it has even been embedded in our minds that it is not healthy to even talk about it. We must accept that it is there and seek ways of curing it.

The days of hiding our problems are over because they are in front of us—the evidence of it, Madam Speaker. If there were such strong arguments on the merits or demerits of the Constitution, the Commissioners' Report, the Referendum or anything else, the Members representing that group would be here articulating those arguments. But there are no arguments. They find themselves saying, *'We do not like it but we are not sure why, we do not have any reasons why but we just do not like it'*. They do not have a position and the only thing that I can congratulate the Members of the PPM on is their intelligence not to come here today or any other day during this debate, because if I were like them going to war against a mighty force of Great Britain's Navy with

only a pair of fins and a bb-gun, I would not come in here and hold up a debate.

Madam Speaker, they are well aware that they have no arguments to articulate. They have no side to put forward because the facts are quite clear that this country has been given instructions from our mother country that we need to modernise our Constitution. The UDP did not initiate that process; we are simply carrying out the process to the best of our God given ability. There is nothing wrong with the process so the Opposition Members of the PPM have tried to say the process is flawed but they have not said what they agree or disagree with.

I find it ironic that the members of the PP Movement and their external forces the People for Referendum (PFR) would argue that it is necessary to defer the debate on the Commissioners' Report on the Constitution until after a referendum. The reason stated was that they were aware that the verbatim Hansard of this debate would be the basis under which the Draft Constitution would be prepared. That is why they wanted this debate to be after the referendum, so they could solicit the views of the populace in order to articulate those views to be adopted in the Draft Constitution.

Madam Speaker, if that was their desire and their knowledge that it would be the verbatim Hansard of the Legislative Assembly why are they not here to state what they think about the Commissioners' Report? It shows what has been said so far—that they did not really want a referendum; they did not really want a delay; they simply wanted anything to make this Government look bad. That is what it is all about—pure politics.

Democracy that we all like to talk about is easy to understand. Democracy from its Greek origin means 'rule by the people'. In ancient Greek the word 'democracy' had negative connotations to it. Today it is different: Democracy is seen as being the ideal and we agree with that. But the original concept of democracy was fought from the start by the ancient Greek because they said that it would be putting the power in the hands of the poor.

Madam Speaker, it is my submission that there are certain forces in this country that are fighting and putting democracy on trial because of the same reason that the ancient Greeks fought it. Because democracy in its purest state will put the grass root people; the hardworking Caymanian people; those in the lower class and middle class in the majority in this country. But there are people who fear pure democracy in this country. The system of direct democracy means that we would have a referendum on every issue but it was realised that was not practical. We would have a Parliament made up of thousands of people coming here to share their views but that was not practically possible. So, it was then [redefined] and in modern day the word 'democracy' is synonymous with 'majority rule'. It was clearly established that the populace would rarely find themselves all

agreeing on any subject. So, we had to adopt a system of majority rule and that is now the foundation of the democratic principles.

The only true test as to who controls the majority and who represents the majority is that of a fair election. And no one contested the results of the General Election in the year 2000. So, it is my submission that until otherwise proven, this Government represents the majority of the populace of the Cayman Islands.

Madam Speaker, as stated by one of my colleagues, we look forward to the governing of this country over the next two years and entering the year 2004 General Election on the merit of our performance. We feel confident that the people of the Cayman Islands would have seen the reforms made in this country, so as a group we are not afraid to enter the new election. It is a democratic process and we welcome it.

How it works is that we will try our hardest over the next two years to build a consensus among the people. We will try our hardest to implement policies that stem from the consensus. And if we have failed in building the consensus and our policies have failed to match the consensus that is there, the democratic process prevails and a general election creates a change in government. Simple! It is a perfect system and it forces the elected individuals to always be mindful of their responsibility, not only to implement policies but also to ensure that we come here; we go to our political forums; we go to our house-to-house campaigns to educate people on our policies to ensure that we are building consensus at the same time that we are implementing policies. It is a system that has proven to work.

Madam Speaker, the concept of majority rules must be questioned and looked in a little bit deeper because we must always look at who we are talking about—which majority. Prior to universal suffrage women and slaves were not allowed to vote because democracy was not as deep as it is today. Now, we have opened it up and have liberated the populace to participate in the democratic process. Democracy is deepened as we involve the people who are being affected. Democracy in this country has been deepened because of the United Democratic Party. Democracy has been deepened because the involvement of the general populace has increased.

The PPM might want to claim that they have attributed to it, and I congratulate them on whatever role they have played, but it was the United Democratic Party who pioneered this new step in our evolution of introducing a system where we as elected representatives are answerable to a group that represents the general populace.

We have a general council of seven members from every district of the Cayman Islands representing 42 individuals who sit around and talk of the issues of their particular constituency. We are not of the belief that we know it all. Those individuals then report to a

district council in the particular district that represents a cross section of the general public to ensure that the layman can have an input and have direct contact with the representatives with the government of the day. The UDP has deepened democracy in this country and the PPM can never say that we have put democracy under threat.

There are so many issues that arise in a general community but there has been a universal tendency for these issues to polarise into two groups of philosophies. History has proven that the fundamental questions faced must be answered by governments who are responsible for the allocation of resources of a country, and those two philosophies have been (1) who promotes economic growth and (2) who is more focused on the distribution of that economic growth.

Madam Speaker, and Members of this Honourable Legislative Assembly, that is also the situation in Cayman. We have a consensus of those who believe that government's attention and resources should be focused strictly on economic growth irrespective if that growth belongs to a selected few. And we have another group that is focused on ensuring that the hardworking people also benefit from that economic growth. That can be termed as one group who represents the labour and the other group represents the merchants—the establishment.

Madam Speaker, we have found ourselves in the same situation where there is a consensus among a certain sector of the populace who believe that all efforts should solely be from economic growth. But this country has seen that there is much more to be considered than simple growth: we must ensure that as many people as possible feel the benefits of that growth.

The question I pose (in this changing democracy that has now seen the introduction of two parties, the United Democratic Party and the People's Progressive Movement) is: Which group is represented by which side of the House? Madam Speaker, is there anyone who can challenge the record of this group (the UDP) when it comes to the introduction of labour legislation, which can be attributed to the Honourable Leader of Government Business? It has always been supported by the current Minister of Labour and advocated by the Minister of Health and the Minister of Community Services.

We have heard propaganda spread that the worse thing that can happen to a country is labour organisation. We have heard that it is alright for the merchants to organise. Anyone else can join in associations but in this community the two things that no one should ever organise are political and labour groups. The organising of labour is a fundamental role in the negotiation of rights for the hardworking people of this country. No one can question who has contributed most to this development in this country—the Honourable Minister responsible for Community Services.

For the first time in this country we will have a minimum wage legislated. There is currently a Select Committee on Minimum Wage as a result of a Motion brought to this House by the Fourth Elected Member from West Bay. No one can question who is most committed to protecting and enhancing the rights and liberties of the working class of this country than the group who possesses the very person who introduced the Seaman's pension—yourself, Madam Speaker. This group has fought for the re-establishment because the other group stopped it to many.

So, we do not have to struggle to see who represents whom. We have had Members of this Honourable Legislative Assembly (Members of the United Democratic Party) who have passed Motions calling for certain businesses to be restricted to Caymanians, brought by the Fourth Elected Member from West Bay. We have had Members of the UDP who have fought for individual human rights. They have been at the forefront of efforts for Human Rights. No one can question the involvement of the Minister of Education and the Minister of Health as they led the charge for Human Rights in this country. Providing fundamental rights for all citizens in this country.

There have been so many policies that clearly establish the consensus under which the UDP policies are aimed. We have passed Motions calling for a review of the entire Labour Law and the Minister of Labour has circulated a *white paper* seeking to give more benefits and protection to labour in this country.

For anyone who has had the privilege of reading the commitments of the UDP it will be quite clear that we recognise the necessary balance that has to be played between redistribution and economic growth. We recognise that capitalism by its nature creates poverty and classes, however, we do recognise that of the systems that are available capitalism is the most suited system for the allocation of resources in the Cayman Islands. We have sought ways of ensuring that that free competitive nature that drives for the distribution of resources is protected. We have had a Motion brought by the Second Elected Member from West Bay calling for there to be a review of how interest rates are established in this country to ensure that the competitiveness is there.

We have had fair competition legislation brought in this House by Members of the UDP. The most enlightening policy decision to determine what the UDP stands for compared to the PPM was when the Honourable Minister now responsible for Community Services, fought diligently to remove Import Duty on certain essential items such as eggs and milk. They sought to remove these duties so that the cost would go down on these individual items to provide an opportunity for the poor people to survive. We were the group that fought for it. The PPM was the group that reinstated it. The PPM's interim Leader was the Leader of Government Business at the time when the Duty was re-imposed upon the poor, hardworking Caymanians.

The UDP has taken on the challenge of strong negotiations with Caribbean Utility Company (CUC) and the Power and Light in Cayman Brac to ensure [consideration for] the hardworking people who cannot continue to pay these ever increasing high costs. We have taken them on; we have challenged them; we have now asked for an audit and the Honourable Minister of Information Technology has liberated telecommunications. I must give great praise to him, as this effort is one that I do believe will result in lower cost for the Caymanian public.

So, our record is loud and clear, we are seeking policies that will enable and liberate the poor, hardworking people of this country. I ask the PPM to tell me what they have done and what they are proposing to do. You will soon see as we continue to develop our democratic process that their policies are going to be geared at the other sector.

Madam Speaker, I take this opportunity to make it abundantly clear that I truly appreciate the role that all of our forefathers have played in the development of this country including the merchant class. I am not here to talk negatively about them; I am simply here as the protector of democracy to say that it is time for the masses (the majority) to freely select whom they choose to represent them. And if they have selected individuals who resemble them economically, socially, financially and in colour, I can only say that is strengthening of democracy. It is imperative that both sides are represented.

When the UDP sought to organise the participants of the watersports operation into a group that could collectively negotiate benefits from the number of cruise ship passengers that come to our shore; to ensure that small individuals could collectively bargain for the same rights that wealthy, established operators have benefited from for many years, it was said that this was not healthy and was interfering with comers. It could be interfering with whatever, but we are protecting our people. We are ensuring that Caymanians benefit from the economic growth in this country.

The Speaker: Honourable Member, is this a convenient time for the afternoon break?

Mr. Lyndon L. Martin: Yes, Madam Speaker.

The Speaker: We will accordingly suspend for 15 minutes.

Proceedings suspended at 4.12 pm

Proceedings resumed at 4.44 pm

The Speaker: Please be seated. Proceedings are resumed. Continuation of the debate by the Second Elected Member for Cayman Brac & Little Cayman.

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

At the time of the very welcomed evening break I was attempting to show that political and economic philosophies polarised into two sectors, which aims and puts primary focus on economic growth. And the second that puts focus on even and fair distribution of the economic growth

Moment of Interruption

The Speaker: Honourable Member we have indeed passed the time of interruption so may I call on the Acting Leader to move for the suspension of Standing Order 10(2) for the continuation of today's proceedings.

Suspension of Standing Order 10(2)

Hon. Linford A. Pierson: Thank you, Madam Speaker. I move the suspension of the relevant Standing Order so that proceedings can continue beyond the hour of 4.30 pm.

The Speaker: The question is that Standing Order 10(2) be suspended to allow the House to continue its business beyond the hour of 4.30 pm. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended to allow proceedings of the House to continue until 6 pm.

The Speaker: Please continue Second Elected Member.

Mr. Lyndon L. Martin: Thank you, Madam Speaker, for that point of procedure.

Prior to the break I suggested that the two groups that are now represented in the Parliament of the Cayman Islands Legislative Assembly (the PPM and the UDP) have followed an international and historical trend of focusing each on very different philosophies on how to govern a country. I suggested that the records of this country would show that the Members of the UDP have a strong record that demonstrates a commitment and eagerness to provide and secure liberty for the working class of the Cayman Islands.

I pointed out various pieces of legislation and policies that were authored by Members of the UDP to substantiate my argument that this Party truly represents the consensus among the populace in the Cayman Islands. Adding to the differentiating policies we would have seen that the interim Leader of the PPM, the First Elected Member from George Town during his tenure as Leader of Government Business found it to be a responsible leader to go out and furnish great business for the banking community of this country by

indebting our grandchildren to a sum of some \$55 million. The UDP and its leadership took the reins at a time in which the past Leader was about to try to balance the budget in the same manner, through excessive borrowing and placing a burden on future generations. But the UDP chose to take a more proactive, and in my view, intelligent approach of facing the challenge head-on and increasing the licences of some of the establishments in Cayman—a move that certainly was not welcomed by those who have benefited under the past regime who were still there to give the same advice: *'Do not tax us just borrow and somewhere in the future the poor man shall pay'*.

With such clear differentiation in the policies of this Government and that of the Opposition (PPM), I can perfectly understand why we find ourselves in a position of the majority. I have to give great recognition to those hardworking seamen for the role they played to build this country, who will now suffer as a result of the PPM Member stopping their benefit. Not even a letter to let them know that the money they relied on to put food on their table was being stopped.

That compared to a government who immediately launched a new policy—once taken the reins of this country—a new policy that would give a clear and decisive explanation and expectation of who could qualify for the seaman's ex-gratia payment: A policy that has made it clear that the UDP Government truly appreciates and values the seamen; a statement and a policy that the Government would live within our means and try our hardest to make as many Caymanian seamen regain this benefit as financially possible.

It is a clear cut as to the differences in the method of governance of the UDP and the PPM. So, if they want to measure something on a referendum to truly determine what the people of this country desire ask the PPM and the People for Referendum to ask the general public whether they prefer a government that is going to fight for the rights of the hardworking Caymanian or one who is going to work for the merchant class.

I intend that in the year 2004 the UDP will be out there with a platform that will be representative of what the general public wants. And the traditional method used throughout the world by the groups that represent the wealthy: tactics such as \$25 bill hand-outs; bar room buyouts; the payment of electricity bills. I do believe that by 2004 the general public would have seen through this type of politics and would have seen that the UDP is the group that represents their issues.

Continuing on my quest to document the democratic process as it evolves in the Cayman Islands. On the 5 June 2002, the greatest threat to democracy occurred. The Parliament is the establishment that is responsible for consensus building in a country. The Parliament has rules, procedures, standing orders, statutes and conventions that govern how it operates. It has protocol to ensure that there is a meeting of the

minds from both sides of the House. That is the reason these Standing Orders are there. And they are even slanted to ensure that the minority is protected.

Anyone who questions, who challenges the rules, the Standing Orders of Parliament, who questions the very institution . . . because the Legislative Assembly, the Parliament is much more than the physical structure; it is much more than just the Members who come here; it is a set of conventions, procedures and protocols. Madam Speaker, those who challenge this Parliament and disobey and disrespect this institution is the group who has democracy on trial. That is the PPM through the action of the First Elected Member of George Town and the arrogant Second Elected Member from George Town, and that is my opinion, Madam Speaker.

On the 5 June they disrespected the highest authority in Parliament, the position which you hold at the moment as Speaker. But, Madam Speaker, that day did not occur simply because of your refusal, or your rejection, or as can be accurately stated, your suggestion for an amendment to their Motion. It was not about your decision to suspend the two Members, it was a lot deeper than that and the people of our district can understand how deep these emotions go. It is all about those Members who hate it every day when they have to come into this Parliament and bow to you as Speaker. It is a personality issue because it is simply that those Members cannot stand the idea that you are the Speaker of the Legislative Assembly.

We must not forget that within our district—while under the leadership of the First Elected Member of George Town, now the interim Leader of the PPM and his Executive Council colleague at the time, the Member from North Side, all the signs that bore your name and attributed projects and programmes that you instituted when you were the Minister for District Administration, were torn down. Instructions were given for those signs to be removed from the sites. That shows that these individuals have strong, strong, strong resistance against you.

And Madam Speaker, that day (5 June) when emotions came in this House and eroded to a point, even after you invited them to do the respectable thing to withdraw and apologise, they got up and refused to do so. They could not be seen apologising to you, Madam Speaker. That day was a demonstration of personal feelings that they have against you, and in doing so they have placed democracy under threat. The public must be aware that the United Democratic Party, by the very essence of our name, is the protector of democracy and we will adhere to the Standing Orders and implement the rules and policies of this Parliament.

Madam Speaker, I congratulate you publicly here today for the proficiency with which you operated that day and all other days in your ruling in this Legislative Assembly. One that could stand up to any judicial review! But again we would not expect them to be

happy about that; we would not expect them to be happy that you are doing a fantastic job in the Chair.

Politics in this country have certainly not been positively enhanced by the membership of the PP Movement. The public in this country has been misled by the PPM. They went out and took a very innocent, straightforward situation where you asked, as any Speaker would have, for a Motion to be amended to bring it in compliance with the Constitution of the Cayman Islands and the Standing Orders. Those Members that go out and try to make the public believe that they value and respect the Constitution—they want to have more time so the public can make an input in the Constitution because it is so important, and the very document under which we are now operating—the Constitution of 1972—they want to disrespect.

Madam Speaker, how can we believe that their arguments are legitimate when they take the very existing Constitution and ignore clear, decisive points under which their particular Motion could not have complied.

They went out and used typical political propaganda techniques and convinced people to sign a petition; used misleading tactics again. Some people signed the petition because they were told that this petition would save the Cayman Islands from going independent—how far from being the truth! It simply bears no resemblance to the truth. They told people in our districts of Cayman Brac and Little Cayman that this petition was all about the seamen's ex-gratia payment; that you and I, Madam Speaker, were responsible for eliminating certain members of the community from their seamen's ex-gratia benefit. You and I! Madam Speaker, how ridiculous that is! You introduced the seamen's ex-gratia benefit to this country, and myself who has been a long time advocate of the re-establishment and a great critic of the Member from North Side for the method that she chose to stop these members. But yet they have gone around and said that this petition was related to that issue; that signing this petition would assist them in getting back their seamen's money. Madam Speaker, using tactics such as this is no way for responsible legislators to behave.

They preached at the entrance of the merchant stores that it was bad what the UDP was doing and this petition was giving the power back to the people. Is it not ironic that once more we see the role which the two classes in our society play? In our district the petition was circulated by the merchants.

We know the reason and the great resistance to the fact that the people of Cayman Brac have elected you and me: two [from] Watering Place to represent them. It is not important what you or I do; it will always be considered wrong in the eyes of these individuals because they are not looking at our actions and performances. They are looking at who we are and what our last names are. They are seeing that Elton Martin and Lewin Brown's grandchildren are

now representing the country. That is what it all about. And there is no sense behind hiding it; there is no sense in calling it anything else. That is the fact!

It is so evident to anyone of any intellect who looks at the proceedings and the ruling of the 5 June. All you did was read to the public the Standing Orders and interpret the Constitution, and as a result of that you have the merchant class saying, '*She did something wrong*'. Madam Speaker, that is ludicrous but it can only be explained through the underlying reason behind this resistance that you and I and the Members of the United Democratic Party come from a different race, economic standard and geographical location than those who traditionally held the positions that we now hold in this country. We do not have the deep pockets like those who held the positions before that can now fork out \$50 at a time. We do not have the type of pockets that the Members of the PPM have. Those are the simple realities. We come from a different walk of life.

Madam Speaker, I am a first time representative elected in November 2000, with great ambition and zeal to represent my people, truly believing that I could make a difference, and I still do. But I find myself where my time is so occupied dealing with matters that are brought up by the Members of the PPM, that we cannot get the time to address the needs of our people. I am proud that throughout this effort of the PPM to slow down the progress of the UDP and to hamper the programmes and other things, we have been able to achieve for our constituents. You and I have been the influencing force behind the introduction—what I consider a possible economic salvation for our districts—of a technologically based data centre on our Island, with possible employment of up to some fifteen individuals when fully operational.

You do not hear the PPM talking about that and making alternative suggestions. Rather they want to have a referendum to determine whether or not they want to slice Cayman Brac and Little Cayman in two.

We see in today's paper, the *Caymanian Compass*, a photo of Cayman Brac's dock and also in yesterday's paper a coverage showing that the UDP Government—while here defending our position and occupied by the PPM—is still active because we have deployed and signed a contract for \$4 million project to repair the Port and substantially replace a portion of the dock. That project is expected to employ some sixteen individuals of which a substantial portion will be from the Brac. For those living in the big city of Grand Cayman those numbers might not seem significant but for our district of Cayman Brac sixteen individuals being provided with employment is a great achievement of the UDP Government.

When we go to the Brac next weekend to assist the Minister of Information Technology and Planning at the opening ceremony for the West End post office, a modern day sorting centre and post office, we will feel proud to say that the efforts by the PPM to

stop us from achieving have failed because we will be opening the largest post office in Cayman Brac—a modern day facility! And I thank the United Democratic Party for making this a reality.

The UDP has done a lot and will continue to do a lot irrespective of what the PPM tries. Because we know we have the majority and we know we have a responsibility to govern. The PPM should be busy developing alternatives to our policies; developing an opinion and an idea of what they represent. But rather than doing that their Leader and their 'Chief Legal Advisor' of the PPM are so busy out there saying, '*We do not know anything, we do not have an opinion*'. They are not attempting to build consensus.

The Speaker: Honourable Member, we have 30 minutes remaining.

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

They are not attempting to contribute to the growth of our people; not attempting to give constructive debate in Parliament so that our people can hear both sides and grow as a result of it. And a consensus can be sought. They are so busy doing politics on the outside of Parliament that they have no time to come to Parliament.

Madam Speaker, I would now like to devote some of the time remaining to talk on the referendum. It is important that the general public and those who read the verbatim Hansard of this proceeding understand that the Members of the UDP fully support a people initiated referendum.

In 1996 I ran in the election along with some of the same colleagues here in the UDP namely, the Minister of Health and the Minister of Education. In our manifesto one of the highlights was that we supported a people-initiated referendum. In the year 2000 my manifesto stated that I support a people-initiated referendum. However, it is only practical if a people-initiated referendum is called that the issue being discussed is one of national importance. The districts which we represent are not interested in spending \$500,000 of the people's money to have a referendum to determine whether or not they should slice our Islands in two.

Madam Speaker, you and I know the historical, sociological development of that Island and we know the segregation, as you and I commonly joke about the 'dividing tamarind tree in Stake Bay', that invisible line that has always divided our Island. We worked diligently over the years to erase that dividing line. I can say that you and I can float from one end of Cayman Brac to the other end; go into any home we like and feel welcomed because we have done our best. We have held equal meetings on all sides throughout the Island and done our best to represent everyone. We have tried harder than most.

When we went to the Brac and held our series of meetings on the Constitution, then followed by the full UDP, I can easily say that no one supported the

concept of single-member constituency, dividing the Island in two. Yet the People for Referendum and the PPM are going to try to convince me that 500 of our people signed a petition to say that they want to have an input into saying whether the Island should be divided or not. The people have made their statement loud and clear that they do not want single-member constituency. Madam Speaker, they would much prefer if the Member from North Side would make a proposal that that \$500,000 be spent on the seamen's money.

It is clear to me that in their attempt to secure numbers for their referendum in Cayman Brac and Little Cayman, they must have used many deceitful tactics. They even told them that, '*We understand that you do not want single-member constituencies so you can vote No*'. But we know how numbers work: That a 'No' from 1500 people whereas here in Grand Cayman they would be seeking to get a yes from 40,000 people, those noes would get lost. No one is going to convince me that the people of Cayman Brac and Little Cayman do not recognise the importance of the role that you play as Speaker in this Legislative Assembly, and also played by the late Captain Mabry Kirkconnell.

It is a source of pride that a position of this magnitude has been held by two Cayman Brackers. And, Madam Speaker, we are going to ask for a referendum and spend \$500,000 to ask their beloved First Elected Member whether or not it is alright for that person to be Speaker? We are proud of the position that you have; we are proud of the role that you play. I have voiced this opinion in many public meetings on your position and I can clearly say that I have seen the light when it comes to Speakership. There are only a selected few people in this country who can carry out the role of being Speaker. I do not suggest anything that limits our ability in selecting who the Speaker should be. We should select a Speaker based on what the UDP has proposed, the best suited person for the Speaker, be it inside or outside, and we have done so when we selected you as the Speaker of the Legislative Assembly.

Madam Speaker, how can anyone argue against the logic that we should not have the ability to select the most suited person? We do not need a referendum on that subject. If there is a subject that we consider and that the majority of the populace considers to be of national importance, the UDP will initiate whatever legislation is necessary to bring a referendum if it is an issue of national importance. We have discussed this matter among ourselves. We have some issues that we think in the future may be considered of national importance. Of course, we will be supporting a referendum on those issues. But on the issues listed, I have not been convinced and those who have attempted to convince me have not been successful in their argument, especially the argument they have made by being absent from the Legislative Assembly.

I must re-emphasise my disappointment in the Members of the PPM because some of them are seasoned, experienced representatives. And they are going to be led by other Members to stay out of Parliament? When I returned from lunch today and I saw in the parking lot the vehicles of two Members of the PPM I felt good. I said, '*Thanks they are here*'. I felt especially privileged that they would be here during my contribution, only to learn that they were here for about 15 or 20 minutes and left. They came here for a committee meeting and left just as the meeting of the Legislative Assembly was about to reconvene. It is an important function that they play. We must, as representatives, be able to put aside petty politics and personalities and come here as responsible individuals and debate. We must understand that disagreement in Parliament is natural; it is healthy to have opposite views, different opinions. But this is the House where we debate and resolve those issues. Madam Speaker, I urge the representatives of the people that are Members of the PPM to come out to debate this Motion.

As I stated earlier, I am a young representative. I look to my colleagues in the Legislative Assembly (the members of the UDP) such as the Leader of Government Business, the Deputy Leader of Government Business, the other Ministers and other experienced politicians to set a level of debate and I will try my hardest to come in. I have to commend those on this side of the Chamber for the high standard of their arguments that they have put forward. And those arguments have not been countered by the Opposition, as would be expected in a parliament where debate builds consensus. I am disappointed and I am hurt for the people they are supposed to represent.

I listened with interest to a broadcast on Radio Cayman when the PPM announced that they would not be carrying through with their boycott and would have been present in Parliament. I felt good because no one on this side is intimidated by the PPM. No Member of the UDP is afraid to debate them on any issue. We would have debated them on the referendum and the Constitution proposal. There is no issue on which we would turn down an opportunity to debate them and the reason is not because of our numbers, because in this debate numbers do not matter. The merits of your argument is the only thing that matters; the strength of your argument is all that matters, and even for that we have been criticised.

The Speaker: Honourable Member, you have 15 minutes remaining.

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

Adding more strength to my argument that the issue is not what we are saying or doing, it is simply who we are. We cannot escape that reality, and I have to say that scares me like it does everyone but we must conquer it. Because we must not overlook the fact that a lot of this action is unconscious; a lot of this

action by the PPM and those other people who resist our existence is an unconsciousness. They do not know why, they just know they do not like these individuals being there. They have been cultured in that manner of thinking. When I see some of the individuals that come in this gallery and look down on us with a degree of disgust, they do not understand why. They cannot tell you why. *'We do not like what they are doing'* but they cannot put any arguments forward. So much of racism; so much of class segregation—it is an unconscious action.

Madam Speaker, we are doing our part in educating and helping the PPM to understand their need to address this internal issue that they have. We need to put it out on the table and deal with it. This Government has taken action to ensure that the natural democratic process prevails: that stability is not questioned and that our reputation remains strong. We need the PPM representatives to act more responsible and to stop making statements publicly or privately that challenge the very stability, the very factor that makes us successful; that challenge democracy. Because the day that *the tail waggles this dog* is a day that democracy is under threat. The day that *the minority attempts to rule the majority* is when democracy is under threat.

Madam Speaker, the majority must rule and the only way that the majority can rule is through a process under which they elect representatives in a fair manner. Because what we have is a representative democracy—those representatives come together in the Legislative Assembly and decide whom they will select as their Cabinet. And it is enhanced by the Commissioners' Report that when a Chief Minister is in place he appoints the Cabinet and the Cabinet can only remain a cabinet if they maintain the support of the majority.

So, in November 2001 when the past Leader of Government Business (the interim Leader of the PPM) tried to maintain power without having the support of the representatives who represent the majority, *that is democracy under threat!* I am proud to be a part of a group that ensures that democracy prevails. And democracy was strengthened as a result of our existence.

When we come to this Chamber after the 2004 election that will be run on a Party system where everyone would have voted knowing who would be the Ministers if that group gets elected. No one will convince me that that is not a better system than 'boiling turtle meat and breadfruit and deciding it'. To have the people's direct input in deciding who is going to be the Minister and the Cabinet who will be responsible for the governance of this country. No one is going to convince me that there is anything bad about that. No one is going to convince me that the days in which the smallest of citizens in this country, the grass root population, the indigenous hardworking Caymanian can go out and freely elect people to represent them without having the interference by the merchants who

dictate how governments are formed. No one is going to convince me that there is anything bad about that. That is strengthening of democracy. We have done our part as responsible legislators and I hate to have to call anyone this name that is a Member of the Legislative Assembly but what we have seen being demonstrated by the Members of the PPM, are actions of pure radicals who have complete disrespect for stability in this country.

The Speaker: Honourable Member, is that your opinion?

Mr. Lyndon L. Martin: That is certainly my opinion, Madam Speaker. Thank you.

In closing, I simply would like to say that the current Constitution has served us well. But as the UK pointed out, there is a need for modernisation for which it appointed three Commissioners, through the Governor (in consultation at the time with the past Leader of Government Business, the First Elected Member, as I understand it)—who provided a Report. And through following the widest, most consultative process, the Commissioners have made a recommendation and we are here to debate it. The three Commissioners, Mr. Benson Ebanks as Chairman, Mr. Arthur Hunter as a Member and Mr. Leonard Ebanks have done an excellent job, and I am here to say that I accept the majority of what they have proposed and I fully endorse the submission made by the UDP which bears my signature. On behalf of the people of Cayman Brac and Little Cayman, I thank the Commissioners for even making a visit to our district and having consultation with our people.

Madam Speaker, I have made several points but the one I would like to leave with us all is: Please, as a country, let us pull together to elect and support Members based on their merit; their ability; the substances of their policies and procedures, not on the underlining racism and class segregation that has played such a role in the development of this country. Let us fight together to eradicate these evils that poise to separate us all. Madam Speaker, I thank you.

The Speaker: Honourable Acting Leader, may we now have the Motion for the adjournment.

ADJOURNMENT

Hon. Linford A. Pierson: Thank you, Madam Speaker. Before the adjournment I wish to make the point that the House will suspend debate on the Constitutional Commissioners Report 2002, as was recommended by the Business Committee and communicated in writing by the Clerk to all Members on 13 June 2002, to allow the First and Second Readings and Committee thereon to be taken on a Bill entitled The Health Services Authority Bill 2002, at the Sitting of 27 June 2002.

Madam Speaker, I move the adjournment of this Honourable House until 10 am tomorrow, Thursday 27 June 2002.

The Speaker: Thank you. The question is that the Honourable House be adjourned until 10 am tomorrow, Thursday, 27 June 2002. All those in favour please say Aye. Those against, No. The Ayes have it.

Ayes.

The Speaker: The Ayes have it.

At 5.36 pm the House adjourned until 10 am Thursday, 27 June 2002.

OFFICIAL HANSARD REPORT
THURSDAY
27 JUNE 2002
10.39 AM
Eighth Sitting

The Speaker: I will now invite the Third Elected Member from the district of West Bay to grace us with Prayers.

Government Business and apologies for absence from the Third Elected Member from Bodden Town who is still off Island with his wife for medical reasons.

PRAYERS

Capt. A. Eugene Ebanks: Let us pray.

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

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

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

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

Proceedings resumed at 10.42 am

The Speaker: Thank you, Please be seated. Proceedings are resumed.

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

Apologies

The Speaker: I have received apologies for the late attendance for the Honourable Deputy Leader of

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

The Speaker: I have received no notice of any statement for today's Sitting.

GOVERNMENT BUSINESS

BILLS

Suspension of Standing Order 46(1)

The Speaker: The Honourable Minister responsible for Health may I have a motion for the suspension of Standing Order 46(1).

Hon. Gilbert A. McLean: Madam Speaker, I beg to move the suspension of Standing Order 46(1) so that Government Business may be taken today, which is normally set aside for Private Members' business.

The Speaker: The question is that Standing Order 46(1) be hereby suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46(1) suspended.

FIRST READING

The Health Services Authority Bill 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for Second Reading.

SECOND READING

The Health Services Authority Bill 2002

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Madam Speaker, I beg to move a Bill for a Law to establish the Cayman Islands

Health Services Authority to take over, own and operate Government Health Services facilities in the Islands and for incidental and connected purposes.

The Speaker: The Bill has been duly moved, does the Honourable Minister wish to speak thereto?

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

The Bill today proposing to create a Health Services Authority has been somewhat bedevilled over the past six months in reaching this Honourable House. There was the situation of many drafts and corrections, and there was also the situation of the House not being called within the normal time limits and so it has reached to where it has today.

I am grateful to the Members of the House for having allowed this Bill to be brought now so that it can seek passage prior to 1 July when it has been proposed that it should come into effect.

Many things are on hold right now including the opening of a bank account and such other matters as will be necessary for the establishment of this entity. Also that the House was accommodating in allowing this to be brought on a day that normally there would have been Private Members' Motions.

Madam Speaker, and fellow Members of the Legislative Assembly, today I stand before you to propose the establishment of a Health Services Authority as a long term flexible framework to provide the maximum benefit of health care to our people at the best possible cost and highest standards of patient care. Dynamic changes in health care affect not only the Cayman Islands but also health care systems worldwide, and it is prudent for us to adapt to these advancements.

Our health care system currently provides quality care and we are making changes to offer better services. The Director and staff of the Cayman Islands Health Services Department deserve recognition for the manner in which this Department has coped with the many significant changes over the past ten (10) years.

Change is inevitable so it is imperative that we have a plan for dealing with it. Today we have a unique opportunity to build a health care system that is sustainable and Madam Speaker, that word needs to be emphasised, 'sustainable', for in the present trend we now have the word of specialist in this field that for it to continue as it presently is, it will not be sustainable.

The key to creating and maintaining a successful 21st century organisation is leadership, not only at the top of the hierarchy, but also throughout the entire Health Services entity.

Establishing an authority with an operational and management structure based on a private sector model, will allow for a Board to manage and operate the Health Care Facilities as an autonomous unit. The organisation will function like any other company

meeting its expenses while continuing to provide high quality service to its customers.

I am sure Members would agree that changing the Department to an Authority is not a panacea; it will not solve all the problems or completely eliminate the spiralling cost of health care. However, it will give greater authority and decision-making power to health care workers who have direct contact with patients and bring about any necessary changes in organisational roles and relationships. It does create an arms length situation from the political directorate and gives the authority to people versed in health care to do what they should do to improve health services.

Madam Speaker, the Health Services Authority Law, 1991 was repealed on 31st December, 1993. The Bill before the House now proposes to establish a new Cayman Islands Health Services Authority to take over, own and operate the existing Government Health Care Facilities throughout the Cayman Islands, which I would specifically state, includes the hospital in Cayman Brac, and to make provision for matters connected therewith and incidental thereto.

Madam Speaker, the Health Services Authority Bill, 2002 promises to:

- (a) ensure the sustainability of the health care delivery system that we in the Cayman Islands have come to expect;
- (b) provide flexibility for the Health Services to keep pace with needed development;
- (c) create an opportunity for the service to operate as a business;
- (d) allow for economic growth;
- (e) separate providers from regulators and payers and;
- (f) de-politicise the Management of the Health Services.

The Authority is set down to be a body corporate having perpetual succession and a common seal subject to the provisions of the Bill before the House. It shall have power to buy, sell, hold, deal and otherwise acquire and dispose of land and other property of any kind and to enter into contracts and to do all things necessary or desirable for the purposes of its duties and functions. Schedule 1 set out the property, which shall be vested in the Authority.

The duties of the Authority as set out in Clause 5 are as follows-

- 1) To provide health care services and facilities throughout the three Islands in accordance with the National Strategic Plan for Health prepared from time to time by the Government.
- 2) Administer the Health Care Facilities in an efficient manner and in such a way as to maintain and promote the health of the patients of those facilities.
- 3) Co-ordinate the administration and operation of the Health care Facilities.
- 4) Make recommendations to the Minister on the development of the health care facilities and the health care services in the Islands and on such other

matters as the Minister may refer to the Authority for advice.

5) Give effect to any direction given by the Minister or by the Governor in Council under the Order.

6) To provide public health care programmes as determined by the Minister acting on the recommendations of the Board; and

7) To provide health care for employees of the Government, indigent and such other persons as may be agreed from time to time with the Minister.

It shall also be the duty of the Authority to-

- (a) supply outputs that the Governor in Council has agreed that it will purchase from the Authority;
- (b) supply outputs to entities or individuals other than the Governor in Council for payment and in accordance with agreements with those entities or individuals. In other words, Madam Speaker, provide for people generally in the country who wish to go to the Hospital for services;
- (c) achieve the ownership performance that it has agreed with the Governor in Council that it will achieve during the year.

Madam Speaker, funds for the implementation of this Bill was appropriated in the 2002 Budget. In this Budget Government appropriated \$43,343,044 for the Health Service Department. The balance of these funds at the date of the commencement of this Law will be transferred to the account of the Authority during the period 1 July, 2002 to 31 December 2002.

In accordance with clause 6 of the Bill, the Governor in Council shall inject initial capital in the Authority and it shall establish an appropriate mechanism for determining such initial capital and on-going injections of capital into the Authority and the continuing operational funding requirements of the Authority. The Authority shall have the power to borrow with the permission of the Legislative Assembly.

It has been made clear to the Hospital and the Management of the Hospital that the Government is operating on an extremely stringent Budget and that the Hospital upon becoming a Health Services Authority will be expected to manage its business under the strictest of financial considerations. Monies will only be allotted to it when it can be proven that such are necessary and it will only be to top up what it needs after it has earned its own revenues.

Like all other private entities clause 8 provides that the Authority shall have a board of directors which shall be responsible for the policy and general administration of the affairs and business of the Authority. The Board shall consist of -

- (a) the Financial Secretary or his nominee;
- (b) the Permanent Secretary to the Ministry of Health or his/her nominee;
- (c) the Chief Executive Officer;
- (d) the Medical Director of the Authority;

(e) the Director of Public Health; and

(f) not less than six nor more than eight other directors appointed by the Governor in Council.

Madam Speaker, the persons who are named by office are persons who it is felt need to be on the Board of Directors to keep the link that is necessary between the Government and the Authority, and to give it the opportunity of having a flow of information from Government and Government's thinking towards the provision of health care services, particularly where these relate to persons whom the Government undertakes to provide health care services for. In effect, to also be their watchdog as the entity is starting using the funds of Government or public revenue and it is necessary from that perspective it has persons so related to it, and also people like the Chief Medical Officer (CMO) whose title is being changed to Medical Director of the Authority. Other than that, those will be the limitations set on the person from Government; not less than six nor more than, other directors to be appointed by the Governor in Council.

Madam Speaker, it is my intention to seek, and indeed I have done that, to find persons in the Cayman Islands with proven business records, successful business people, and people of certain acumen to be appointed. Out of those a Chairman will be appointed. I have no intention of appointing myself as Chairman or any of the civil service persons before named as a chairman. Those appointed to the Council will be made known in the immediate future.

Neither the Authority, nor any director or employee of the Authority, shall be liable in damages for anything done or omitted in the discharge of their respective functions under this Law unless it is shown that the act or omission result from their dishonesty, fraud or wilful neglect.

Clause 13 provides that the Board shall appoint, at such remuneration and on such terms and conditions as the Board may think fit, a Chief Executive Officer who shall be -

- (a) full time officer and employee of the Authority. This person is just another new name for the Director of Health Services and it would be assumed that in the change over the persons who are presently in office would simply continue on.
- (b) the principal executive officer of the Authority entrusted with the day to day management and administration to the extent of the authority delegated to him by the Board.

The Board may also employ, at such remuneration and on such terms and conditions, as may be approved from time to time by the Board, such employees and engage under contract for services of such professional, technical or other assistance, as it considers necessary to carry out its functions as is provided under clause 14.

Madam Speaker, like any company would, it must be in the position to hire people as it goes along whether it is doctors, nurses, ancillary staff or whatever.

Any public servant employed in any of the health care facilities on the date this Law comes into effect shall become an employee of the Authority on such date, on the same terms and conditions as those applicable to him or her on the day immediately preceding such date, except to the extent other terms and conditions are agreed between each employee and the Authority. Also, disciplinary matters shall be dealt with in accordance with the disciplinary rules and procedures of the Authority and not under General Orders.

It is my firm belief that it would make no sense to create a health services authority which you are trying to put on its own to do the business that you set it to do, using the people who are professionals in this field, and then also continue to tie them in with the General Orders, which is the surest way, it seems in the world, of not getting the job done because of bureaucratic red tape. The Law which will apply to the Health Services Authority will be the Law which applies to 98 per cent of the people employed in the country; that of the Labour Law and from the Labour Law the Board of Directors of the Authority will set down its procedures and so on as any company would do.

The Board shall have the authority under clause 16 to determine the fees to be charged for the services provided. These fees shall become effective ninety days after their submission to the Minister unless disallowed by the Governor in Council. The Board shall publish in the Gazette the fees in effect from time to time. In order for the Board to provide Health Care services there needs to be a second increase of fees in the current fee schedule, hence clause 16 shall not come into effect for a period of time to be agreed by the Governor in Council. Madam Speaker, another way of saying it is that there is presently a schedule of health fees and these health fees will be the fees by which the Authority must initially be bound.

I told this Honourable House earlier this year, in fact, the first of the year, that Government was subsidising the cost of health services by 85 per cent and that a 30 per cent increase in these fees was effective earlier this year. However, it is necessary to increase the fees again to bring them to the level where the fees are covering the cost of delivering them.

There is one point that I wish to make at this time. I took the decision not to increase the fees the second time as was scheduled to take place in April, simply because insurance companies took the announcement of an increase in fees to be an excuse, in some instances, to double and triple premiums on plans that some of them were offering. How I know that is because people who had insurance plans sent me copies of letters sent to them by their insurance

companies telling them of these increases and showing them what the amount would be. Due to that, Madam Speaker, I took the decision to get an actuarial review done to find out exactly what the situation is; what the companies are doing in terms of their charges; is it fair; is it reasonable for them to do that; how the Law impacts fees and how the proposed increases could be expected to impact fees, since no one really knew what the true position was of premiums and cost to insurance companies in this country from the time the Law came into effect..

Madam Speaker, I took the time to meet with the insurance organisation and the word which the Ministry received was that these fees had been increased in anticipation of the 100 per cent increase, which was to take effect. So, Madam Speaker, when the other part of the increase comes into effect I most sincerely trust that those insurance companies will not again, under any circumstances or excuses talk about an increase in premium because of an increase in health fees.

Madam Speaker, it is set down that the Board shall manage the financial performance of the Authority and in accordance with the principles set out in clause 17.

The principles are as follows- (a) the Authority's revenue (inclusive of any amounts received as continuing operational funding requirements obtained in accordance with section 6 (1) and inclusive of any revenue arising from the Authority's ability to vary its fees in accordance with section 16 (1) less the Authority's total expenses (measured using generally accepted accounting practice) shall be positive, subject to the fact that in accordance with section 16 (1), fee increases that may be required to ensure that revenue exceeds expenses, do not take effect until ninety days after the announcement of the intended fee increases;

Madam Speaker, let me say here again, that the Health Authority would not be expected or permitted to raise fees any higher than those which are expected to be raised to a point before year end, to bring the fees of the now Health Department to the level where they would be covering the cost of delivering them. The Authority is expected to stay in the black, as we say. Now we know that will be an extremely difficult task and the provision is that the Government will undertake only to top up monies to keep the Authority in existence. It has to work and strive to pay its own way. That is the whole purpose of it.

(b) the Authority's total assets (inclusive of any amount of capital injections obtained in accordance with section 6 (1)) less the Authority's total liabilities (measured using generally accepted accounting practice) shall be positive;

To say that some very hard requirements are being set down is to put it rather mildly for the Health Services Authority. I believe that if the Authority is managed in the way that it should be, given some time, it can move into a positive position. This has been something worked out through Finance and the

Government Budget Office at considerable length; the whole scenario of the way it is being set up with full and complete audit and everything else that goes into checks and balances.

Under the strict way this is set up, I hardly think that we could come up with a situation that has WorldCom, where they have been able to defraud or embezzle \$4 Billion; one wonders about how those things could happen. I must say the Auditor General is ever present in our setting and thank heavens these things seem not to happen.

In regard to finances— (c) cash reserves in the reserve fund should be maintained at a level no less than the estimated expenses (measured using generally accepted accounting practice) for ninety days, subject to the fact that the Authority has until July 2004 to comply therewith or such other date as the Minister of Health in consultation with the Governor in Council, may decide.

Madam Speaker, this again is another strict rule which was put in place to force the Authority to work for the highest efficiency, although the Government has agreed that half of the year's Budget, that is from July to December, will be given to the Health Services Authority since it was budgeted and found that it needed that to function. It is only going to be given in portions, there is not going to be any 6 months sign over, maximum will be a three months basis so that it corresponds to this or less. If the cash flow is such that they do not need it then it will not be drawn down.

(d) financial risks, including contingent liabilities, facing the Authority should be managed prudently so

(e) as to minimise the likelihood of any such risk resulting in an expense or liability to the Authority and the Government.

I also wish to say that the assets, various properties and so on which will be given to the Authority include the various clinics and the parcels around the hospital and also any lands relating to the present provision or the Hospital and its provision of Health Services.

Clause 18 sets out the powers of the Authority regarding gifts to the Authority.

Subject to certain exceptions in the Law, any funds appropriated by the Legislative Assembly for the purposes of the health care facilities or programmes, any income derived from fees and any other income of the Authority, shall be held and applied to furthering the purposes of the health care facilities or programmes in such manner as the Authority may think fit.

Clause 20 deals with the Budget and related provisions as set out in schedule 2.

I should say to Honourable Members that I insisted this Bill had to contain the same requirements as are required and set out in the new Public Finance Law and that has been inserted. The only thing is, there is a provision to give it different time factors to

come into effect because of it not having the revenue immediately needed, therefore it could not meet certain requirements, but it is in the Law for them to meet at various intervals along the road.

[Inaudible interjection]

Hon Gilbert A McLean: Madam Speaker, I am just being reminded that it is the Public Management Finance Bill because although it has been passed almost a year ago, it has not yet come into a Law. So, I stand corrected in that regard but Members will know what I am speaking of.

The Authority shall cause proper accounts of its financial affairs to be prepared and maintained on an accrual accounting basis and in accordance with generally accepted accounting principles.

The Governor in Council has the power to direct the Authority to pay a dividend to the Government. The Authority shall comply with such direction unless it would cause the Authority to breach its duty to maintain cash reserves at a level not less than its estimated expense for 90 days. These provisions are here in the Bill, but of course, as I have explained, the Government would hardly call upon the Health Services Authority in the next 6 months to pay dividends, simply because it is a great likelihood that could, and certainly would not exist.

The Minister for Health, at any time may require the examination of and report on the accounts of the Authority or any part thereof and may request the Auditor General to conduct such examination as indicated in clause 23.

Clause 24 empowers the Director of the Internal Audit Department to review the financial management systems operated by the Authority.

The Authority shall prepare an annual ownership agreement for each financial year no later than four months after the end of the first half of each financial year; the Authority shall produce a half-yearly report. The requirements of such reports are set out in clause 27, and Schedule 5 applies for the purposes of this clause.

In accordance with clause 28 the Authority is also compelled to produce an annual report and the requirements for such report are set out in Schedule 6.

The Annual Ownership Agreement, Half-yearly Report, or Annual Report for the Authority need not include a matter which the Financial Secretary determines to be of a commercially sensitive nature, as is provided in clause 29.

Notwithstanding section 29, the Authority shall forward to the Minister of Health such returns, statistics or other information as the Minister may by notice in writing, reasonably require.

Madam Speaker, the Authority shall each year review its requirements for premises, and any premises in the possession of the Authority which are no longer required for the purpose of the Authority shall

be disposed of in accordance with clause 31. That assists with the removal of unnecessary premises of cost to the Authority.

Clause 32 provides that the Minister may, after consultation with the Authority, give such general and lawful directions in written form as to the policy to be followed by the Authority, in the performance of its duties and functions as appear necessary in the public interest.

The Governor in Council, as is normal, may make such regulations as required for the effective implementation of this Law, provided under clause 33 and the Authority may, subject to this Law, make such rules as it thinks fit to regulate its own internal management.

Clause 35 provides that the Authority shall subscribe to the Public Service Pensions Fund in accordance with the provisions of the Public Service Pensions Law, 1999 for the payment of pensions to all employees transferred to the Authority. The Authority shall not provide a pension for those employees referred to in accordance with clause 15 while such employees are entitled to a contracted officer's supplement. With respect to employees hired after the date of the commencement of this Law the Authority has the option of subscribing to the Public Service Pensions Fund or to a Fund in accordance with the provisions of the National Pensions Law.

Madam Speaker, to ensure that employees of the Health Services Department did not lose any benefits coming to them it was agreed that for pensions they would continue to subscribe to and pensions would be paid to the Public Service Pension Funds.

Persons who are now getting Contracted Officers Supplement (COS) will not have this pension paid for them now. Once their contracts are ended they may then wish, if they continue, to subscribe to that. There is also a provision to make it possible for the Board of Directors to choose for new employees that their pension will come under the National Pensions Law.

Madam Speaker, the Health Insurance Law, 1997 shall apply to the Authority except that- (a) the Authority may elect to provide free or subsidised medical benefits in lieu of, or in addition to, insurance coverage under the Health Insurance Law.

As we know, Madam Speaker, the civil servants receive free medical and this may continue if indeed this is the wish of the Health Services Authority or also, in addition, they may have coverage through contribution if that is chosen to also be covered by health insurance.

(b) any person described in section 15 shall be entitled to receive from the Authority the medical benefits provided to him on the day preceding his transfer to the Authority unless otherwise notified by the Authority.

Madam Speaker, though the Cayman Islands Hospital is recognised as an exemplary provider of

health care services within the Caribbean, it is crucial that we do not rest on our laurels. Times have changed and health care costs have increased far beyond normal rates of inflation. The time is right for us to be prudent in preserving for the future the quality of health care to which we have grown accustomed.

The Government is committed to ensuring that there is quality and caring services for all citizens of this country, and sees the establishment of a Health Care Authority as one way of achieving this goal. We will continue to support public health programmes to ensure that maximum improvement to health is brought about by prevention and other interventions.

The Authority shall deliver outputs that are being purchased by the Governor in Council and pursuant to this the Authority shall prepare and execute an annual purchase agreement with the Governor in Council for each financial year.

I now seek the support of this Honourable House for the establishment of a Health Services Authority which will provide the framework for health services to become a forward looking and self sufficient organisation delivering the modern, fair and convenient health care services our people need. Accordingly, Madam Speaker, and Honourable Members of this House, the request is that this Honourable House give its approval to the passage of the Bill which is before it.

Madam Speaker, I would just like to mention that there are certain amendments, which have been circulated, and I would propose to move those at an appropriate time.

Thank you, Madam Speaker.

The Speaker: Thank you. At this time we will suspend for the morning break.

Proceedings suspended at 11.28 am

Proceedings resumed at 12.33 pm

The Speaker: Please be seated. Proceedings are resumed.

I understand it is the wish of the House that we take the luncheon break at this time. The House will suspend for lunch until 2.30 pm.

Proceedings suspended at 12.34 am

Proceedings resumed at 2.46 pm

The Speaker: Please be seated. Proceedings are resumed.

The Honourable Minister responsible for Health.

Standing Order 44 (3) and section 37(2)(a) of the Cayman Islands (Constitution) Order 1972

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

On a matter of procedure, I would wish to bring to the attention of the House that in fulfilment of the Constitution 37(2)(a) and under the Legislative Assembly Standing Order 44(3), that I have the signification of the Governor for the expenditure that will be incurred by this Bill. Also in the requirement of the Standing Order that there should be a certificate so stating that approval has been given, I have them and I wish to table them with your approval. I would say that these have ever been present and required in the Standing Orders but have not been invoked as such. However, just to make sure that all bases are covered, with your permission I would like to table them.

The Speaker: So ordered.

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

The Speaker: Madam Clerk, perhaps copies could be made for circulation to Members.

Does any other Member wish to speak?

The First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker.

The Bill that is before us this afternoon, which has been brought by the Minister of Health, a Bill for a Law to establish the Cayman Islands Health Services Authority to take over owned and operate Government health care facilities in the Islands and for incidental and connected purposes, is a Bill that at this point in time, certainly will be welcomed by all Members.

We certainly take the position that the Bill is for all purposes and intentions; one that will bode well for what is now the Health Services Department. Hopefully, once the Bill, when it comes into Law, is adhered to in practice. Certainly it should mean well for the future of what will then become the Health Services Authority.

In examining the Bill and listening to the Ministers presentation, Madam Speaker, certainly there were several points brought out which cleared the air in certain areas, but I think that there are some questions which might need to be clarified.

In the Memorandum of Objects and Reasons where it speaks to the definition section, which is clause 3 and in the second paragraph it speaks to funds for the implementation of the Bill if passed were appropriated in the 2002 Budget. In the Budget Government appropriated \$43,342,044 for the Health Services Department and the balance of these funds as at the date of the commencement of this Law, which I understand from the Minister is suppose to be 1 July, will be transferred to the account of the Authority during the period 1 July to 31 December. He also explained that this would be done periodically, as is needed, depending on cash flow.

As we go through and see in the various sections that are addressed in the Memorandum of Objects and Reasons, there is a question that comes to mind with regards to this amount appropriated. Also, in the 2002 estimates there was a projected income from the Health Services Department of some \$19.5 million, I believe, and I think we also know the Minister did not point directly to it but he has made mention and explained some of the circumstances, which have caused for the second tier of increases that were proposed in the Health Service fees to be delayed. Immediately one would recognise that that would have an impact, at what level I do not know, on the projected revenue of \$19.5 million. However, over and above the mere fact that it may have a differential at the end of the year because of the timing, the question that needs to be clarified is after Government deals with the amount appropriated in the amount of the estimates under the expenditure section. I am certain there is an easy answer but I just could not find it in what is proposed.

As of now, I believe, that the funds collected by the Health Services Department—I do not know exactly what the method is that is used, but somehow or the other it gets into the general revenue stream. So, again, the question has to be clarified, and it may be there but, as I said, I could not find it when I was looking. The question is that at the point in time when the Health Services Department becomes an Authority and begins to function on its own, if the expenditure that is allocated for the year going to be handed over on a timely basis by the Government, how then does the revenue that is collected from the period 1 July to 31 December dealt with? Is that revenue from the Health Services Authority during that period of time still going into Government's General Revenue, as I would think it should, based on the methodology I see?

I just wanted to make sure that we have that position clear and understanding that, how is it dealt with in the future? I believe that fair comment would be that it is obvious there would be some weaning period and while all of the principles are being applied to making the Authority be able to function on its own as autonomous as it is desired to be, and having its own expenditure and revenue, it is clearly understood by all that with the best of intentions it is going to be an uphill battle and struggle for some time to come. When we look at the two figures that were in the 2002 estimates we see where nearly \$43.5 million is allocated on the expenditure side; projected revenue is under \$20 million and perhaps even less than that because of not being able to introduce the second tier of the fees. So, it is in broad terms we could easily be looking at a differential of \$25 million from the very beginning.

One of the things that leads that argument forward when the question is raised is when we look at clause 17(a) in the Memorandum of Objects and Reasons and having come to the point where we see

that immediately there is at least a \$25 million subsidy that is perhaps going to have to be looked at for the Authority to be able to function.

“Clause 17 provides that the Board shall manage the financial performance of the Authority and in accordance with the principles set out in this section.

Such principles are as follows-

- (a) the Authority's revenue (inclusive of any amounts received as continuing operational funding requirements obtained in accordance with section 6 (1) and inclusive of any revenue arising from the Authority's ability to vary its fees in accordance with section 16 (1) less the Authority's total expenses (measured using generally accepted accounting practice) shall be positive, subject to the fact that in accordance with section 16 (1) [this is the most important section to me] fee increases that may be required to ensure that revenue exceeds expenses, do not take effect until ninety days after the announcement of the intended fee increases;**

Madam Speaker, as a matter of principle, I do not believe it can be argued that is not the desired position for the Authority to be in, but it speaks to fee increases that may be required to ensure that revenue exceeds expenses.

Certainly in the Minister's presentation he has not, I do not believe, tried to let it appear like that is going to be something which will fix itself overnight and I am not suggesting that. While the Memorandum of Objects and Reasons in this section speaks to it, I would certainly like for the Minister, whenever he gets to the point of winding up his presentation, to look to that and perhaps give some type of forecast albeit it may be difficult to be in any way precise. However, just to be able to speak to that issue with regards to some objectivity of being able to say what are the plans in order to lessen the gap, and what type of time lines are forecasted to where the Authority could get to the point of having some semblance of being able to be called self sufficient.

The reason why I focused on that point is because immediately the difficulty is going to ensue if you are more than twice with expenditure at present, as you are compared to your revenue, which is what I think it is, given the figures that we have available to us. So, in order not to have a severe impact on what the public will have to pay, it is certainly going to have to be at minimum a two-pronged approach like most other things when you deal in situations like that, because a very close look is going to have to be taken on the expenditure side and revenue collection. I am with confidence the Minister is cognisant of that situation. Also how do you go about justifying and implementing the level of increase in fees that you are go-

ing to need to be able to get to the point of self sufficiency?

The Minister mentioned this morning about insurance premiums and the fact that we now have a Health Insurance Law, which is, in most cases, mandatory and the increase in premiums that were said to have taken place in anticipation of certain increase in fees at the Government facilities. Madam Speaker, I would like to go a little further than where the Minister went this morning. If I remember and understand correctly what the Minister said when speaking to these increases, he said that in some instances these increases were doubled and tripled which he alluded to, and when the discussions with these entities who are the providers of health insurance took place, their answer was that they anticipated increases in Government fees. The Minister also spoke to the fact that whenever these increases came about he would not expect for there to be any increase in the fees from the insurance companies.

I really want to go a little further than that because I do not know how long before the increase will come about, but in the mean time, they are collecting money for something that they are not having to pay for. So, what are they doing with that money? While I respect the fact that there is no legislation in place to actually be able to make any demands, the fact of the matter is that it needs to be pointed out to these entities. Obviously everyone who has health insurance is being charged in anticipation. So, every premium that is paid for and every policy that is in place, people are now paying in anticipation of a fee that is not being charged but it is still coming out of their pockets to an insurance premium. As I said, I am with clear understanding for the lack of legislation and perhaps it is a sorry thought in the minds of many if you speak to legislation in that area, but certainly it is becoming more and more obvious that there is no other route to take if you simply leave it up to the laws of competition.

Another thing that is close to a fact, if it is not a direct fact, is that many of the providers deal in such a way that they are not in really competition with each other. For example, all the banks get together whenever there is a rate increase or decrease and they decide all of that together, that is the way that industry is headed. Madam Speaker, bear in mind we have a law in this country that affects almost every single individual citizen, Caymanian, long term resident or work permit holder, once it is beyond a certain length of time. So, this is not one of those items that anyone escapes and while perhaps the thought could be proffered that it is shifting a little from the focus of the Bill, the fact is, it is very important in the scheme of things that that situation be regularised.

What we are going to be faced with is a situation where the Government is being forced almost in continuum to be looking at fees, to be able to get the point where providing health services is to the level of self sufficiency, and at the same time the people of

the country who are being provided these services are continually paying more. The insurance company could say to you that if the Government did not raise its fees we would not have to raise our premiums. So, I am saying that we really need to look carefully at that because if it is not being said now, it is going to be said. That is exactly what is going to be said!

This issue affects just about everybody, Madam Speaker, and I raise the point to say that this Health Services Authority, once it comes into existence as is anticipated, come 1 July of this year, has that situation as an immediate challenge while there may be another agency directly responsible for what I speak to. I draw the correlation to show that it is vitally important that that situation be regularised otherwise the Health Services Authority will never be able to function as it is intended; it will never happen! Because if you have the continuing spiral it goes right through the entire situation; it goes to what private practitioners charge as fees, which affects what insurance providers call as what the premiums have to be to cover their payouts and their administrative costs. When it is all over it comes right back in one lap, the people. If you simply leave that to its own fate, Madam Speaker, I am certain experiences have taught us by now that it will not rectify itself.

We believe on this side that regardless of the relationships, personal and otherwise, the time has come for the Government to look very seriously at having a mechanism in place to be able to have rates in this area, regularised and justified. Any increase at any point in time, must be justified and not just be able to be done at will. It has to happen, as in many other areas but it happens that today we are speaking about this one.

There is no intention to try to suggest to any-one of those entities that they must not operate in a profitable situation. We all understand about re-insurance and all of the things that have to be put in place for them to function, whether it be with health, property or whatever type of insurance. Madam Speaker, I want to make the point very strongly today that we on this side, in considering the situation, are in support of the autonomy of a Health Services Authority in order for it to be able to have its own objectives and to decide its own fate and function properly as an entity, as has been proven with most other authorities that are attached to the Government, but at the same time, the Government must be able to find the ways in a reasonable manner to be able to deal with the situation of rates.

Madam Speaker, having made that point perhaps we can move on into a few other areas. I have just a short question under clause 5 on the Memorandum of Objects and Reasons, the very last section of (g) and it reads: **“to provide health care for employees of the Government, indigent and such other persons as may be agreed from time to time with the Minister.”** That statement to me is just a little

vague and I wonder if the Minister could clarify what that entails when winding up. It is (g), under clause 5.

Madam Speaker, clause 6 says: **“Clause 6 provides for the capital and borrowing powers of the Authority. In accordance with that clause the Governor in Council shall inject initial capital in the Authority and it shall establish an appropriate mechanism for determining such initial capital and on-going injections of capital into the Authority and the continuing operational funding requirements of the Authority. The Authority shall have the power to borrow with the permission of the Legislative Assembly.”** I understand the general parameters that are set out in clause 6 but what I just read simply follows on with what I was laying down earlier on, as a case of just needing a bit of clarification. It comes back to the question of, is there a clear vision in mind as to what the objectives are and what the timelines are, and how it is thought that the whole situation might be gone about to achieve the desired results.

One of the very important observations to be made, which the Minister also alluded to this in his presentation, was where he mentioned that the financial side of the new Health Services Authority will be structured parallel to the new Public Management and Finance Bill; I think the Minister said ‘Bill’ this morning. I am trying to remember when the Bill was brought to this House. Whatever it is, it must be the longest Bill that we have ever had. September 2001, June 2002! Again, why that is still a Bill, the mystery that it is, is not the main focus of the debate here, but it certainly brings to mind and proves the point that looking at this as an example; having to come in force 1 July and looking to follow the situation with the Public Management and Finance Bill, not being a Law yet. Anyway, again, perhaps that is for another time.

It is good to know that the principles are being followed and the Minister made mention of accrual accounting. He also spoke to outputs rather than it being input based. I see it is mentioned in clause 25 where this clause provides that the Authority shall deliver outputs that are being purchased by the Governor in Council, and pursuant to this the Authority shall prepare and execute an annual purchase agreement for the Authority with the Governor in Council for each financial year in accordance. Clause 25 also provides contents of such purchase agreement. Madam Speaker, we would subscribe that that is certainly very much in line with what should be the way forward. There is a question which comes to mind in this area and it regards clause 22.

Clause 22 provides that the Governor in Council’s has the power to direct the Authority to pay a dividend to the Government. The Authority shall comply with such direction unless such direction would cause the Authority to breach its duty to maintain its cash reserves at the minimum level set out in clause 17(3)(c). I do not know if this section is simply pulled from what obtains with other Authorities but if

we use some of those other Authorities as examples, I believe that the Minister, who I know, certainly wants the situation to be as right as it can be, so he should take a careful look at how this is worded and I will explain why I believe it should be looked at again.

In discussing the matter, my colleague the Elected Member for East End, brought out the point that there should be some specific reference either by way of a percentage or some other defining wording. This would create the mechanism that would be very specific in this instance when it speaks to the Governor in Council having the power to direct the Authority to pay a dividend and the fact that the Authority shall comply with that direction unless that direction would cause it to breach its duty to maintain its cash reserves at the minimum level set out in clause 17. When we look in the Bill itself and we look at clause 17 it reads and I quote, **“The Board shall manage the financial performance of the Authority in accordance with the principles set out in this section.”** It has a slew of them—

“(2) The policies and decisions of the Board shall be consistent with the principles of responsible financial management set out in subsection (3) and the impact of those decisions on the Authority’s financial performance and position shall be measured using accrual accounting.

“(3) The Authority shall administer the health care facilities and programmes according to the following principles of financial management.”

I will not bother to read all of them but you see it is not impossible. I have known it to happen in the past, where there was nothing defining.

There was a similar situation with Civil Aviation Authority. Notwithstanding what the Law calls for; for them to have as a level of reserves, they were called upon the very last day of the year by the Government to pay in certain amounts in order to try to help the year end result of whether it was surplus, deficit or how much of a deficit. So much so, that the very first quarter of the next year the Authority was not in a position to meet its commitments via its loans. At the time when it was pointed out by the Director that he could not pay in these amounts because he would not be able to pay that, the excuse that was forthcoming from the Government of the day was: *‘do not worry about that, if you cannot pay your loan by March we will pay it for you’*. That is one example.

The other situation that could be the case could be where capital improvements are needed. Bear in mind now that the Authority is going to be an Authority and will basically have its own mechanism and decision making processes in place to decide on capital improvements or renovations, or whatever, to the facilities which it holds as assets. It could be a situation where whatever the good plans are had by the Authority, are stymied, by request of such a nature if it is simply left where it does not affect the reserve levels that are decided upon. It is not just the levels of

reserves that would cause the Authority to be able to function properly. At times, as I just mentioned, there are capital improvements that would be needed and certainly the Authority is going to need whatever it may have as cash flow to assist in that process, even if it is to be able to send projections to an institution if they are engaging in borrowing, which the Legislative Assembly would then have to ratify, in any case.

So, when we speak to the retained earning of the Authority and beyond a certain level, the Government having access and being able to call upon, for them to pay in as dividend, I speak around that, not to suggest that the principle is not correct, but once the Authority is in a position to, it should pay in dividends. We understand clearly in creating the Authority the Government is vesting assets which are now Government assets into the Authority, so the Government is making an investment and for an investment there should be a return. So, no one is questioning that; it is the methodology that is being employed and experience has taught us that we have to find a way that is more specific.

Madam Speaker, many of us who are still in this Legislative Assembly today will remember the question being asked over and over again with successive Governments regarding this same situation, pointed especially at the Water Authority and the Civil Aviation Authority, and also at times the Port Authority. For that matter the entire situation will need to be addressed.

I have heard on occasions, the Honourable Financial Secretary speak to some formula being devised. It just seems to me that it is time enough by now that it could be devised, devised, devised. It should have been able to be completed by now but if this is the one that needs to make it happen then let us do it.

Madam Speaker, the other question that comes to mind has to do with when the Minister was explaining the Public Service Pension Fund and the payment to pensions of the employees of the Authority. I note in what will be coming as committee stage amendments that some clarity is brought to the issue. However, Madam Speaker, I would like if the Minister could explain in his wind up—this is attached to some other things that were pointed out prior to this—how will it be handled where it is the intention for the Authority as soon as it is physically possible, whether it be five, ten or whatever number of years to get to the point of self sufficiency.

During the interim every year, as I imagine it would be, when it comes to the agreements being made between the Authority and the Government, I think it would be whatever outputs that are desired amicably agreed by both Parties, as to what amount the Government would have to invest during that year into the Authority for it to be able to deliver those outputs. Added to that would be what the projected income for providing those services would be to strike the balance.

As for the business of pensions, would it continue to be done in the same manner that it is being done at present, in that whatever is allocated on the expenditure side for each Department this will now be an Authority? Would it simply be added in to what it part and parcel of Government's contribution to the exercise in order to be paid in to the pension fund or will it be a separate situation? I just do not know—I am imagining that it should follow suit and there not be any change in that, but I do not see where it is very clear and perhaps it may be, but I have not seen exactly how that would work. There is a reason for that because, as I understand the Bill, even with what is proposed as amendments to it, anyone who comes in to employment, first of all those who now are employed will either be the same permanent and pensionable establishment as they are at present or those who are attracting contracted officers supplements would continue in that vein until the contracts are expired. What is to obtain in the future would be perhaps moving from a defined benefits scheme, which exists, with some of the permanent pensionable establishment to a defined contributions scheme which would be in line with the National Pensions Law.

As I understand the whole scheme of that operation, how does it affect the revenue stream of the Authority? Whose responsibility will it be from the time it becomes an Authority? Or is it simply part and parcel of the entire lump sum of the contribution that the Government is going to make every year to ensure that the Authority is able to function and fill the gap between the difference in its revenue and expenditure? I think that needs to be clear because if the aim is that you are going to get to the point of self-sufficiency, all of those costs have to be included in the entire process; they will not be able to be separated.

Madam Speaker, in clause 36 where it provides that the Health Insurance Law 1997 shall apply to the Authority—“except that (a)” and this is the one that I do not know whether I am grabbing and just cannot catch but something is not quite right in my understanding here. I quote: “**Except that—**

- (a) the Authority may elect to provide free or subsidised medical benefits in lieu of, or in addition to, insurance coverage under the Health Insurance Law (2001 Revision); and**
- (b) any person described in section 15 shall (except to the extent otherwise agreed) be entitled to receive from the Authority the medical benefits provided to him on the day preceding his transfer to the Authority.”**

So, the assumption would be that just as per whatever the pension arrangements were with employees as they move from employees of the Health Services Department to being employees of the Health Services Authority, so too would be whatever health benefits were afforded them at the time of the move. However, when it speaks to: ‘the Authority may

elect to provide free or subsidised medical benefits in lieu of or in addition to’, the question that comes to mind is, if there is any suggestion that there may be a difference in what health benefits are provided to the employees of the Health Services Authority to what obtains across the board elsewhere. I do not know that and that is why I am in a quandary trying to understand, simply because the statement says, ‘in lieu of or in addition to’. I flag that up simply to say that not only for purposes of clarity but for purposes of consistency, we might want to ensure that there is parity when it comes to what others in similar situations might see as a benefit being derived from employees of that Authority.

Because of how the statement is made in the Memorandum of Objects and Reasons it is not clear to me exactly what it implies or what it actually means and I think we need not only to be careful, but to be sure, and as I said, that there is parity when it comes to what others in similar situations, namely, whether they are in other government departments or whether they are being employed by other Authorities. I am certain all of us are cognisant that each one knows what the other one is afforded and sooner or later that is what causes problems with any imbalance that may be seen. So, I do not know, and certainly I am not subscribing to the belief that that is the intention but just how it is worded, I think it would behove us to look carefully at that to ensure it is very clear as to how we go.

Madam Speaker, in general terms, perhaps if we were with an Authority that was nine of ten years old, by now we would have almost been to the point of self sufficiency. Perhaps it will take us all of that time starting from the beginning again, hopefully not to have anything break the spell and not have the Authority continue again. It is when we look at it and if one can be as objective as one can possibly be, it is really a task that is going to create many very serious challenges. Because with the firm desire for the Authority to become as self-sufficient as it can become, as quickly as it possibly can do that, and at the same time being tempered with the knowledge that as a Government one still has whether by desire, by ones own volition or simply out of necessity, to pay close attention to the fact that the cost of providing health services is ever on the rise.

Levels of disposable income are not rising proportionately so that people are able to fund their own way whenever they are sick and need help and such, plus, Madam Speaker, we have a question that I brought fourth a while ago about what premiums are costing the citizens of the country. Those premiums are forever going up, I have never heard of one of them going down yet. So, it is a never ending challenge and certainly one that needs focused attention, tight ship run as taut as possible with it comes to maintaining whatever the policy decisions are and staying with the programme.

Madam Speaker, we on this side are supportive of the Bill and certainly would look forward to, as time goes on, be able to keep hearing good news that things are getting better. As I said before, it is clearly understood from the onset that it is a big challenge. Certainly if the records show regardless of what changes in policies have been made with successive governments, the fact of the matter is, this is one of the entities that out of necessity must be dislodged from the day to day running involving the political arena, simply because it is perhaps at best, physically impossible to speak to government as a business when you have situations, without me going into any details, that you will find when it comes to health care and what individual citizens require on an ongoing basis day to day in that regard. It is perhaps one of those situations that you almost wish you could just get somebody else to deal with it and you would not have to hear about it and it would be okay at the end of the day, but of course life does not allow for that.

The last question that I have is in regard to the \$5 payment that goes to a fund which is to assist government with regards to providing health care for indigent or uninsurable, something of that nature. I do not see where that is specifically addressed and I would want to suggest to the Minister that it be dealt with specifically if he wants to ensure that that is part and parcel of what is considered to be the Authority's revenue since the Authority will be providing the service.

The Minister might well find himself in a situation where the battle is on because those funds are slated to go elsewhere if the situation is not clarified from the onset.

Thank you, Madam Speaker, and I hope that all goes well in the future for the new Health Services Authority.

The Speaker: Thank you. Does any other Member wish to speak? Does any other Member wish to speak? Last call, does any other Member wish to speak?

The Elected Member for the district of East End.

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

I rise to make a very short contribution to the Bill before us; that is a Bill for a Law to establish the Cayman Islands Health Services Authority to take over, own and operate Government Health Services facilities in the Islands and for Incidental and Connected Purposes. I will try not to cover most of the things my colleague did but there are a few things in addition to what he contributed that I would like to touch on.

I begin by saying that I support the bringing in and the provisions of this Bill and what it will bring to the Health Services of this country. My hope is that this one will be given a chance to see if it will work because I believe that a Health Services Authority will

bring some efficiency and effectiveness to the system. I trust that it will not be short lived as the other one was from 1991 to 1993. Certainly, this one should last at least two years if the situation remains as is and I can say that I applaud the Minister who at the time was the declared Opposition and he has remained consistent in his support for an Authority. I applaud him for having now being in the position that he can bring it back. He has remained consistent in his resolve to have a Health Services Authority.

Madam Speaker, I move on and ask the Minister if in his windup if he could let us have some indication as to section 5 in the Bill where it speaks to the duties of the Authority. In there I see no provisions made for other practitioners on the Island utilising the facilities that Government provides.

I know that there was a Health Practitioners Bill that was proposed in September, which has been withdrawn, but while that governs the Practitioners Bill, the Law governs the practitioners and I wonder how practitioners other than those who work for Government will be governed at the facilities that Government provides. Because certainly there has to be some kind of control and certainly that control extends not only to the conditions of practice, which should include the cost that they have to pay to the Authority and hopefully maybe that will be coming out in the regulations, but I trust that it will not be forgotten. I see that as a means of revenue for the Authority as well. I am sure and I would like the Minister, if he could, touch on that aspect when he is winding up.

In section 8, I had my concerns as to where the now Director of Health Services would fit in, but I believe the Minister clarified that when he said that the Chief Executive Officer would be expected to be that individual and certainly they would be transferred over.

The next section is section 14 of the Bill, which calls for the power to employ staff and while I understand that the transition will bring the staff over who are currently in the Health Services Department, I wonder if it is envisaged that there will be a requirement for additional staff to staff the new Health Services Authority because it appears that provisions are made to transfer all of those who are currently under the Department.

Madam Speaker, I know that I may be moving in the next section a little outside of the Health Services Authority but I think they are interconnected when we talk about insurance fees. Certainly, the Health Services Authority will not be able to operate with any degree of efficiency or effectiveness if it does not collect the monies due to it and I think that my colleague touched briefly on it and I would like to also.

I too heard the Minister say that the insurance companies are saying that in anticipation of the increase which increased in fees at the Health Services Department, they increased their premiums to match it and he hopes that there will be no further increase if and when that comes later on in the year.

Madam Speaker, this Honourable House increased the Health Services fees by 30 per cent earlier on this year or the end of last year, November, to be exact, during the Budget session. Now, I do not profess to have any authority on insurance but when I hear the inflated premiums that has come as a result of those increase in fees, I consider it an embarrassment to me and to this country to think that the insurance companies would increase by 100 per cent to expect the other 70 per cent, but not 300-400 per cent! There is no way anyone can tell me that calculates correctly. How are the poor people who are making a couple of hundred dollars a week capable of sustaining such increases? When I hear some of the people who work in the tourism industry say that their premiums were around \$100 for them and their families and it has now gone to \$400, while I do not support interfering with the free enterprise market something needs to be done to assist our people. I fear that is bringing some serious hardships on the people in this country and in particular those who work at the lower end of the wage scale. 30 per cent increase cannot justify 200-400 per cent increase on premiums. Something is radically wrong with that! It appears that the rich get richer and the poor get poorer and then the middle class is crucified. Madam Speaker, the Minister has said that he has made representation to them and I would ask him to not let it go at this stage, but continue to see what can be done about these premiums that have been increased so heavily.

Madam Speaker, on the issue of the reserves for the Health Services Authority, based on this year's Budget for the Health Services Authority the three months I calculated, which is asked for in section 17c of cash reserves, I calculated that to be somewhere around \$11 million, and while I understand section 17c it says: ". . . **subject to the fact that the Authority has until 1 July 2004 to comply therewith or such other date as the Minister of Health in consultation with Governor in Council may decide;**" I do believe that the latter part of that will have to be put in place because I do not believe that the Health Services Authority will have reserves equivalent to three months of estimated expenditure by the year 2004 when the revenue projected this year is much less, somewhere around \$20 million and we have some \$40 million odd in expenditures. That is extremely ambitious to expect, so at the very least we need to ensure that the only way they will be able to comply is if a date is set by the Governor in Council far into the future and not 2004. I do not expect them to do that.

Madam Speaker, while I support the Bill I question the time that has been given for the transition, 1 July, which is within a few days and I am just wondering if we are all ready for this transition. Is there a time frame in place for amnesty transition, so to speak, where the Health Services Authority will be given some degree of flexibility in getting their provisions in place and complying with the Law? The transfer of the whole Department over to an Authority—

what provisions have been made to assist the staff in going to this degree of autonomy and realising that they will be operating under a different structure, a different Law, a different boss and so on. We know how traumatic these transitions can become to staff and certainly staff whether it the Health Services Department or anyone else, can become very resistant to change. I encourage the Minister to give some kind of freedoms to allow the staff to get adjusted to their new situation and educate them on the new efficiency that is expected of them and what the new Health Services Authority will bring and the benefits it will have for them.

Madam Speaker, I do not have a lot more to say except to again congratulate the Minister and his staff, and all of those who played a part in bringing this Health Services Authority Bill to the forefront. I can assure the Minister that he has my full support in getting this in place and hopefully as long as I am here, keeping it in place. I know that this is not an overnight solution, it takes a while, and like my colleague for George Town said, if we had the one from 1990 that is 12 years ago and we probably would not be here now and it is going to take a while for this one to mature and I look forward to its maturity. I also look forward to the Health Services Authority of the country being operated under a different system and I too would like to wish the new Health Services Authority, which comes into place on 1 July, every success and I know the Minister will endeavour to ensure that all of those who operate the new Health Services Authority will be qualified and they will be doing it with their full heart.

Madam Speaker, I thank you.

The Speaker: Thank you. At this juncture we will take the afternoon break.

Proceedings suspended at 4.06 pm

Proceedings resumed at 4.43 pm

The Speaker: Please be seated. Proceedings are resumed. Does any other Member wish to speak? Does any other Member wish to speak? Last call, does any other Member wish to speak? If not I shall call on the Mover if he wishes to exercise his right of reply.

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

I would first like to thank those Members who spoke for their expressions of support for the Bill and their views that it is indeed a way to proceed towards some improvement in health services. I can certainly give my undertaking that I shall proceed as best as I can and understand how to give every support to the entity to do what is set down in Law to be accomplished.

Madam Speaker, by being able to have this Law, if indeed it receives passage when it comes to the vote, it will allow the matters which have been held pending now for at least four months or more to actually take place. There have been some queries raised in the debate of the two Members from the Opposition and I shall attempt to address and explain the queries which they have raised. I think that it is important in that other eyes look at the Bill, whereas I thought originally we had gotten everything covered but yet there was necessity prior to my even moving it to have certain amendments, which I hope will be dealt with at committee stage.

Madam Speaker, the first point that was raised by the First Elected Member for George Town was with regards to clause 3 which deals with the revenue of the Health Authority.

The Speaker: Honourable Minister for Health we have passed the hour of interruption. I now call on the Minister of Government to move the suspension of Standing Order 10(2).

Suspension of Standing Order 10(2)

Hon. Gilbert A. McLean: Madam Speaker, I would ask to move the relevant Standing Order (10(2)) that the debate could continue pass the hour of 4.30 pm.

The Speaker: The question is that Standing Order 10(2) be suspended to allow the House to continue. Sorry Honourable Minister, did you say until the conclusion or until 6.00 pm?

Hon. Gilbert A. McLean: Madam Speaker, I said beyond 4.30 pm I would certainly like for the conclusion. Yes! Madam Speaker.

The Speaker: The question is that Standing Order 10(2) be hereby suspended to allow the proceedings of the House to continue until its conclusion. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: Please continue Honourable Minister.

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

As I commented just a moment ago, the point raised by the Honourable First Elected Member for George Town was that of the Budget of approximately \$44 million which is approved in the 2002 Budget.

Madam Speaker, it is a fact that without the increase, which I referred to when I presented the Bill, with the second increase having been put in place,

there is bound to be a shortfall. I cannot say how much but there will be a shortfall in the revenue and the shortfall naturally will have to be met, and there is that understanding in the Government that it may be necessary to meet the shortfall in that regard in the overall budget or directly in the Budget of the Health Services Authority. However, I would like to say to Members that considerable effort is being put out and there is considerable success in collections happening right now. There has been better collection of revenue due to the registration system, which has been instituted. There is also good news that the spending is on the Budget by \$1 million today. So, there are indications that the efforts that are being made is paying off.

Of course, another area of revenue to the Health Services Authority—it would almost be like a guarantee as such coming from Government, where it would be required to pay for the services offered to civil servants; Central Government would be billed and payment would be required by the Health Services Authority. Also there would be charges for Public Health programs such as immunisations; service would be given, medicines dispensed and there would also be billings for that plus other public health areas, which Government over the years have undertaken to provide for, such as the assistance and treatment of HIV and AIDS patients. These would all be areas where Government would in effect be a client and pay the Health Services Authority.

I would make the point, and this has been verbalised to the persons in the hospital now and what we expect to become a Health Services Authority, is that they would have to give the very best prices and the very best service for government to spend its money with them. There is no absolute guarantee because they will now be offering a service and they will have to compete with the other entities in this country which also offers a service. If they cannot give government as good a service and price as we can get at one of the other clinics or medical entities, government has a right to look for the best deals. So, there are a lot of things in place to create an incentive for the Health Services Authority to do what it should do.

The Member also referred to clause 17(a) where it is required that the finances be positive. The question was raised as to how this could be if there is already major subsidising since the stated \$19 million will not be realised and as an ongoing process how could this be done. Well, Madam Speaker, the Law provides that this would not necessarily happen straight away and the Law provides that the Authority would have up until July 2004 to work towards meeting this condition. Where it falls short it would look to government to subsidise the difference but it must first show its figures, collections and government only act in a manner of topping it up to where it has the capital to do its business. If it should continue in the vein, as the present thinking is, it will be offering service of a quality and of a kind and at a price that the government would take its business to it. In turn if there were

not costs that it had to meet by providing services to 3000 odd civil servants then one could conceivably see there are not being that big of an expense to the Health Services Authority as well.

The matter of Health Insurance, Madam Speaker, is something which all Members of this Honourable House seem to be concerned about. It has certainly been expressed by me on behalf of Government and I was most encouraged to hear it clearly stated by the Opposition Members of the House. I agree with the First Elected Member for George Town that we have to arrive at some way of regularising premiums and that is not to say that insurance companies, as now exists, will still have the same right to go on to offer insurance coverage to the people of this country but it cannot continue to do so at the runaway escalation of prices as the country has been experiencing.

KPMG has made a report which has recently just been received and they have made certain recommendations in that, which offers opinions or recommendations as to how this may be dealt with and this will include certain changes in the Law. It is my intention to make this Report available to Honourable Members of this House so that it may be examined and looked at in the Select Committee which was set up last year. The contents of it, of course, will be held confidentially until such times as it is tabled, however, I have no problem in making it available to Members who I feel sure will understand the need for confidentiality.

In that regard the Member also asked as to when the fees might be increased. I can inform the House that at this time I expect to recommend to this Honourable House that the next fee increase, which should have come about in April should at least come about on 1 August. So, we have the opportunity of seeing whether having just made that statement, of the insurance companies attempt to raise the premiums again. We do have the benefit now of at least a report, which I think is being done for the first time that makes recommendations as to what it should and could be as to ways forward. I look toward all Members having access to that Report and to us continuing the work of the Select Committee on health insurance, as was started by my predecessor.

In clause 5, duties of the Authority, in 5(g) it states: **“to provide health care for employees of Government, indigent persons and such other persons as may be agreed from time to time with the Minister.”** The query was as to who might fall within the ‘other person’ situation. That would include pensioners, veterans, Members of the Legislative Assembly (MLA’s), seamen, prisoners and such; there may be other persons who does not come to mind right now and Members will notice that these persons I have just named, have not been named in the Law, but these are who will fall within that category of persons. There are no expectations that it will be any

changes in this regard at this time, or for that matter, in the immediate future.

Madam Speaker, in clause 6 there was a query as to how the injections of initial capital and on-going injections of capital into the Authority would work. I should say to Members that to be technically correct, since Finance Committee approved funds to be spent by the Health Services Department in that there is a change now to a Health Services Authority, we will be bringing an item to the Finance Committee to have its approval for that half year Budget to be assigned to the Ministry on a draw down basis to the Authority. It has been specified via a paper to Executive Council, which has met with approval that funds will only be allowed to be drawn down where it is necessary to keep a certain cash flow. There will be no large amounts of money paid out unnecessarily, for it has also been agreed that the huge outstanding debt of millions of dollars that is owed to Government for health services, the Health Services Authority as the most appropriate entity will be encouraged to continue the collection and it will have the access to the funds which it collects.

The rest of the revenue the Health Services Authority will need will be from the funds of the present Budget, and thereafter, the collection of monies from past debts and monies to be collected will go to its account and from that they will be able to use that. Depending on how much that falls short of the overall Budget then that will be topped up by government.

I am glad to know that the Members see the Purchase Agreement as something which is correct in management and certainly that is the position of government.

The concern raised with clause 22 where the Governor in Executive Council has the power to require a payment is something which I have had concerns with over the years, in terms of the requirement of Authorities to pay monies to Central Government. In the past I have suggested there should be some formula which sets out a percentage and I still hold that view, and, in fact, I have voiced it since the time I have been in this particular office. I believe that if one arrives at a sensible, working formula it would be easier for all concerned; Central Government and the Authorities. Of course, there is a limit placed on what the Governor could require; it cannot be less than three months working capital for the Health Services Authority. They cannot demand any amount that would cause it to fall short of that. However, I take the point raised by the Member that funds which might be required could be funds which were reasonably earmarked for development in other areas, in the Authorities, and I take careful note of that. However, I think it is an achievement in itself that we have arrived at a position in this case where some limitations have been clearly defined.

In clause 35 that deals with the Public Service Pension Funds, the Authority will have within its half year Budget such monies that are necessary for it to

pay into the Public Service Pension Fund. After the half year is expired it would have to meet at least a half payment and the Government would through the usual means, which is via the Finance Department, meet the other half of the deduction from salaries. Other than that, the Government could simply subsidise the amount paid to the Health Services Authority so that it could pay the full 12 per cent on its behalf. We have to remember that there are contracts in place, which were made with the Cayman Islands Government, and all of those contracts are being honoured until the time of their expiry.

Madam Speaker, in clause 36 there was also the query regarding whether there might be a different system for medical benefits. Members will remember that when I presented the Bill I said we had a situation where, according to the Mercer Report, if things continue the way they are with health services as a Department and things happening as they are, not collecting the fees and the constant subsidy, that it would not be sustainable. So, the Health Services Authority will have to make every effort to find a sustainable way to deal with the situation. Whether it might think that in its wisdom it is best for it to take out one large group plan for all its members and pay the premium for that coverage, it will be left to its management to decide whether that would be the best way or whether it would attempt to offer it free, as it presently is. It would actually be left to civil servants and what their financial people should decide would be the best way forward.

Madam Speaker, in the paper to Executive Council there is also the agreement that the \$5 and \$10 surcharge, which is added to the premiums of insurances, would come to the Government to be paid to the Health Services Authority for covering indigent persons because they will be billed for these persons, and that will eventually go to the Health Services Authority.

Madam Speaker, the Member for East End also raised some questions with regards to the Bill and one of them was that he did not see any specific provisions for allowing private practitioners to use the facilities. At present the way it is done is that private practitioners make an application to the senior managers for privileges to use the hospital facilities and in just about all instances I think this is approved. Certain criteria must be met and I would assume that the very same type of thing would apply for private doctors who wish to use the Government facilities. I take the point he makes and I am very glad to hear what he has said in that regard that the Government must charge for this privilege and for the things used. I have discovered that there are various items, which are used in some instances in the course of private practitioners using the facilities that they are not charged for, things of the gowns and gloves and various items. So, I take note of what he has said and indeed this is one of the things that even now is being looked at in this regard.

The present Director of Health Services would become the Chief Executive Officer, it would be a name change and there is certainly no idea that there would be anything but that. There are various name changes in the Law and the CEO would be the present Director of Health Services.

I imagine, Madam Speaker, as is provided for in clause 14 and again was raised by the Member for East End, there will be some new staff employed and there may be some redundancies; this would be strictly left to the Board of Directors in reviewing the whole situation as they should, and I am sure they will. Once the Board is appointed they would look at this but one of the things I can say, is that the Authority will have to constantly look at its overheads and its expenses because it is going to do whatever it has to do to make as much revenue as it can. Of course, the cost of outputs will be based on this. They will have to offer services to government at a certain price and they in turn from their own internal scrutiny will have to see where they can make cost savings.

The Member for East End also made the point that there must be containment of insurance premiums and I can only say I absolutely agree. I support that idea and I look forward to very soon for all Members of this House having the opportunity to meet and come up with a consensus of opinion on this very important matter that is affecting everyone and every single business in this country.

I also want to make clear that in January when I first posed the idea of the Health Services Department becoming a Health Services Authority and having had the approval of Executive Council, I met with all of the staff at the Hospital; there were several hundred people. As recent as Tuesday, this week, I met with them again and I have explained as best I possibly can all the implications. Over the past four months there has been focused groups that has been studying the change over, advising everyone in the health services, medical staff, other staff and administrative staff, so it is not the case at all that anyone is uninformed about it. It is natural that there will be resistance to any change; that is a very common human element but no one can say they do not know about the change and when it would be taken place, and have been briefed prior, as to what to look for and what to expect. In fact, Madam Speaker, draft procedures have been developed and are actually waiting to be shown to the new Board, to have them adapt them in their entirety or with such amendments, as necessary, but in all areas administratively from a medical prospective, as well, they have been drafted.

The major effort on the way now has been and continues to be the collection of fees and the stronger realisation that this is necessary because Central Government cannot afford to subsidise in an unlimited way the need for finances for the Health Services Authority. So, from that perspective, I think that all persons are informed as to what to expect in this regard.

Madam Speaker, I think today is a signal occasion when an effort is being made to pro-act to the conditions, which face the country, in terms of finding a way forward with better management to provide what is such a very important service, that of health care services. I know it lies within the capability of the doctors and staff we presently have at the hospital to make this happen; the persons we have in the Ministry that can make this happen, and I am aware that there is certain silent resistance; I believe that anybody can get over that problem and for those who cannot, if the management says then they should find somewhere else where would be more suitable to their wishes and desires. So Madam Speaker, and Honourable Members, I have no doubt that this Bill will bring about a much needed change and that it is a positive thing to do. Perhaps, it is the only thing that we can do at this time to assist the situation, which presently exists within the Health Services Department.

So, Madam Speaker, having said that, I do recommend this Bill to all Honourable Members.

The Speaker: Is it still the wish of the House to go into Committee at this stage?

[Inaudible response]

The Speaker: The question is that the Bill shortly entitled the Cayman Islands Health Services Authority to Take Over, Own and Operate Government Health Care Facilities in the Islands; and for Incidental and Connected Purposes be given a second reading. All those in favour please say aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Health Services Authority Bill 2002 given a Second Reading.

The Speaker: The House will now go into Committee to consider the Bill.

House in Committee at 5.20 pm

COMMITTEE ON BILL

The Health Services Authority Bill 2002

The Chairman: Please be seated. The House is now in Committee. With the leave of the House may I assume that as usual we would authorise the Honourable Second Official Member to correct minor printing errors and such like in these Bills. Would the Clerk read each Bill and its clauses?

The Clerk: Clause 1 Short title and commencement.

The Chairman: Honourable Minister I believe there is an amendment to clause 1.

Hon. Gilbert A. McLean: Yes, Madam Chairman.

The Chairman: Leave is hereby granted.

Hon. Gilbert A. McLean: I beg to move the first notice of amendments which were circulated and I read, in accordance with the provisions of Standing Orders 52(1) and (2), I the Honourable Minister responsible for Health Service, District Administration and Agriculture give notice that I intend to move the following committee stage amendments to The Health Services Authority Bill—

That clause 1 be repealed and the following substituted— “Short title and commencement

(1) This Law may be cited as the Health Services Authority Law, 2002.

(2) The provisions of this Law shall come into force on 1 July, 2002 with the exception of section 16 which shall come into force on such date as may be appointed by order made by the Governor in Council.”

The Chairman: The amendment has been duly moved does any Member wish to speak thereto. If not I will put the question that the amendment stand part of the clause. All those in favour please say aye. Those against, No.

Ayes.

Agreed. Amendment passed.

The Chairman: I will now put the question that clause 1 as amended stand part of the Bill.

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

Ayes.

Agreed: Clause 1 as amended passed.

Mr. D. Kurt Tibbetts: Madam Chairman, may I?

The Chairman: Yes, you may.

Mr. D. Kurt Tibbetts: I just noticed where it says that clause 1 be repealed and the following substituted— Number 2 where it speaks to the provisions of this Law: “The provisions of this Law shall come into force on 1 July, 2002 with the exception of section 16 which shall come into force on such date. . .” Section 16 refers to the Governor in Council from time to time, should that not be dates— plural?

I am sorry that I am a little bit late but I just wanted to make the observation.

The Chairman: Honourable Minister for Health.

Hon. Gilbert A. McLean: Madam Chairman, I am advised that as it stands it meets the legal requirement.

[Inaudible response]

The Chairman: Thank you Honourable Minister.

The Clerk: Clause 2 Interpretation.

The Chairman: Honourable Minister can you move the amendment at this stage?

Hon. Gilbert A. McLean: Madam Chairman, I wish to move an amendment in clause 2.

I wish to withdraw the amendment to the definition of "Director of Public Health" as set out in the first notice of committee stage amendments circulated on 26 June 2002 and by deleting the definition of "Director of Public Health" and substituting therefor the following - "Medical Officer of Health" has the meaning assigned to it by the Public Health Law (1996 Revision)."

The Chairman: I propose to put the question on the withdrawal first and then deal with the proposed new amendment.

Hon. Gilbert A. McLean: I am directed by you, Madam Chairman.

The Chairman: The question is that the original clause 2 as submitted in the first notice be hereby withdrawn. All those in favour please say Aye.

Ayes.

Agreed: First Amendment to Clause 2 withdrawn.

The Chairman: If you would Honourable Minister, repeat your intention for the new clause 2.

Hon. Gilbert A. McLean: Yes, Madam Chairman. I wish to move the amendment to the Bill by deleting the definition of "Director of Public Health" wherever it appears throughout the Bill and substituting therefor the words "Medical Officer of Health", and 2, by deleting the definition of "Director of Public Health" and substituting therefor the following - "Medical Officer of Health" has the meaning assigned to it by the Public Health Law (1996 Revision)."

Madam Chairman if I am getting it wrong, please direct me; I do not have a problem with that.

The Chairman: The amendment has been duly moved, does any Member wish to speak to the new clause 2? If not, I will put the question that the amendment do stand part of the clause.

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

Ayes.

Agreed: Amendment passed.

The Chairman: I will now put the question that clause 2 as amended stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 2 as amended passed.

The Clerk:

Clause 3	Establishment of the Cayman Islands Health Services Authority and the vesting of property.
Clause 4	Use of seal and authentication of documents.
Clause 5	Authority to have general management of health care facilities.
Clause 6	Capital and borrowing powers of the Authority.
Clause 7	Reserve fund.
Clause 8	Constitution of the Board of the Authority.
Clause 9	Meetings of the Board.
Clause 10	Disclosure of Directors' interests.

The Chairman: The question is that clauses 3 through 10 stand part of the Bill.

The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Chairman. Under section 8(4) the Board shall consist of and it names the Directors; where does the Medical Officer of Health fit in there? Is that the Director of Public Health?

The Chairman: The Honourable Minister of Health.

Hon. Gilbert A. McLean: Yes, Madam Chairman, it would be the "Medical Officer of Health" would be inserted at (d) where it now says the "Director of Public Health"—(d) would be deleted from reading "Director of Public Health" and the new definition "Medical Officer of Health" would be inserted.

The Chairman: Honourable Minister perhaps this might be an opportune time to move that amendment in your committee stage, number. 2, paragraph 1, which would deal with that scenario that was questioned by the Elected Member for East End.

Hon. Gilbert A. McLean: Madam Chairman, I thought I had moved that earlier but I certainly can do so.

I wish to move the amendment to the Bill by deleting the definition of "Director of Public Health" and substituting therefor the following "Medical Officer of Health" wherever it appears throughout the Bill and substituting therefor the words "Medical Officer of Health".

The Chairman: Thank you Honourable Minister. I believe you did say it but the question was not put hence the reason I requested for your generosity in repeating the said words.

Are there any other queries in respect to clauses 3 to 10 before I put the question? If not I will put the question that clauses 3 through 7 stand part of the Bill. If there is no debate the question is that clauses 3 through 7 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clauses 3 through 7 passed.

The Chairman: I also put the question that the Bill be amended by deleting the words "Director of Public Health" wheresoever it appears throughout the Bill and substituting therefor the words "Medical Officer of Health".

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment passed.

The Chairman: I will put the question that the clause as amended stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 2 as amended passed.

The Clerk:

Clause 8	Constitution of the Board of the Authority.
Clause 9	Meetings of the Board.
Clause 10	Disclosure of Directors' interests.
Clause 11	Director's pecuniary interests.
Clause 12	Immunity.
Clause 13	Chief Executive Officer.
Clause 14	Power to employ staff et cetera.
Clause 15	Transfer of public servants to the Authority.

The Chairman: The question is that clauses 8 through 15 stand part of the Bill. If there is no debate I will put the question that clauses 8 through 15 stand part of the Bill. Those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clauses 8 through 15 passed.

The Clerk:

Clause 16	Fees
Clause 17	Responsible financial management.

Clause 18	Powers of the authority regarding funds, gifts, land etc.
Clause 19	Application of funds by the Authority.
Clause 20	Budget.
Clause 21	Accounts of the Authority.
Clause 22	Governor in Council's power to direct.

The Chairman: The question is that clauses 16 through 22 stand part of the Bill. If there is no debate I put the question that clauses 16 through 22 stand part of the Bill. Those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clauses 16 through 22 passed.

The Clerk: Clause 23 Audit of accounts.

The Chairman: Honourable Minister, I believe that you proposed to move an amendment to clause 23.

Hon. Gilbert A. McLean: Yes, Madam Chairman, in the notice paper of committee stage, amendment number. 2, clause 23, I beg to move that clause 23(1) be amended by inserting the following paragraphs after paragraph (d) –

"(e) have the right to take copies of any statements or other information referred to under this subsection; and

"(f) have the right to require explanations from directors or employees of the Authority."

The Chairman: Thank you.

The amendment has been duly moved, does any Member wish to speak to it? I will put the question that the amendment stand part of the clause.

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

Ayes.

Agreed: Amendment passed.

The Chairman: I will put the question that clause 23(1) as amended stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 23(1) as amended passed.

The Clerk: Clause 24 Power of the Director of the Internal Audit Department.

The Chairman: Honourable Minister of Health.

Hon. Gilbert A. McLean: Madam Chairman, I beg to move that clause 24 be amended as follows– in subsection (1)(d), by deleting the words "any ministry, portfolio, statutory authority or government company"

and substituting the words “the Authority”; and in subsection (2), by deleting the words “that is subject to review.”

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? If not I will put the question that the amendment stand part of the clause.

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

Ayes.

Agreed: Amendment passed.

The Chairman: I will now put the question that clause 24 as amended stand part of the Bill.

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

Ayes.

Agreed: Clause 24 as amended passed.

The Clerk: Clause 25 Reports and agreements of the Authority.

The Chairman: The question is that clause 25 stand part of the Bill. If there is no debate, I will put the question that clause 25 stand part of the Bill.

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

Ayes.

Agreed: Clause 25 passed.

The Clerk: Clause 26 Annual ownership agreement.

The Chairman: Honourable Minister of Health.

Hon. Gilbert A. McLean: Madam Chairman, in the first notice paper, I move that the Bill be amended in clauses 26(5) and 27(5) as renumbered respectively—by deleting words “Financial Secretary” and by substituting the words “Governor in Council”.

Could I just rephrase that please?

The Chairman: Certainly.

Hon. Gilbert A. McLean: That the Bill be amended in clause 26 and 27(5) respectively by deleting words “Financial Secretary” and by substituting the words “Governor in Council”.

Madam Chairman I know that you have only called 26 at this time.

The Chairman: The amendment has been duly moved does any Member wish to speak? If not I will

put the question that the amendment to clause 26 stands part of the clause.

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

Ayes.

Agreed: Amendment passed.

The Chairman: I will put the question that clause 26 as amended stands part of the Bill.

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

Ayes.

Agreed: Clause 26 as amended passed.

The Clerk: Clause 27 Half yearly report.

The Chairman: The amendment was just moved.

Hon. Gilbert A. McLean: Madam Chairman, I can move it again.

The Chairman: Thank you.

Hon. Gilbert A. McLean: Thank you, Madam Chairman. I move that the Bill be amended in clause 27(5)—by deleting words “Financial Secretary” and by substituting the words “Governor in Council.”

The Chairman: Thank You Honourable Minister. The amendment has been duly moved does any Member wish to speak thereto? If not I will put the question that clause 27(5) stand part of the clause.

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

Ayes.

Agreed: Amendment passed.

The Chairman: I now put the question that clause 27 as amended now stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 27 as amended passed.

The Clerk:

Clause 28	Annual report.
Clause 29	Exclusion of commercially sensitive matters.
Clause 30	Minister and Financial Secretary may require returns et cetera.

The Chairman: The question is that clauses 28 to 30 stand part of the Bill. If there is no debate I will put the question that clauses 28 to 30 stand part of the Bill.

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

Ayes.

Agreed: Clause 28 through 30 passed.

The Clerk:

Clause 31	Disposal of premises no longer required by the Authority.
Clause 32	Minister may give general directions.
Clause 33	Regulations.
Clause 34	Rules.

The Chairman: The question is that clauses 31 to 34 stand part of the Bill. If there is no debate I will put the question that clauses 31 to 34 stand part of the Bill.

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

Ayes.

Agreed: Clause 31 through 34 passed.

The Clerk: Clause 35 Pension fund.

The Chairman: Honourable Minister of Health.

Hon. Gilbert A. McLean: Thank you, Madam Chairman. I move that clause 35 be repealed and the following substituted—

“35. (1) The Authority shall subscribe to the Public Service Pensions Fund in accordance with the provisions of the Public Service Pensions Law, 1999 for the payment of pensions to all employees of the Authority.

(2) Notwithstanding subsection (1) -

- (a) where an employee transferred in accordance with section 15 is entitled to a contracted officer's supplement the Authority shall not subscribe to the Fund in respect of such employee during the period in which the employee remains entitled to such supplement;
- (b) with respect to employees employed by the Authority after the date of the commencement of this Law and who have not been transferred in accordance with this Law, the Authority has the option of subscribing to the Public Service Pensions Fund or of creating and maintaining or subscribing to a fund in accordance with the provisions of the National Pensions Law (2000 Revision); and
- (c) the Authority shall not subscribe to any fund in respect of those employees who are employed under contracts which are six months or less in duration.

(3) The Authority shall be considered to be an employer for the purposes of the Public Service Pensions Law, 1999, and an employee referred to under subsection (1) (a) shall not be considered to have retired from Service for the purposes of that Law.”

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? I will put the question that the amendment do stand part of the clause.

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

Ayes.

Agreed: Clause 35 as amended passed.

Hon. Gilbert A. McLean: Madam Chairman, may I just point out something that I just read? It says subsection 1(a) but it seems that it would be subsection 1. There is really no 1(a).

The Chairman: Are you talking about 35(3).

Hon. Gilbert A. McLean: Yes, Madam Chairman.

The Chairman: Perhaps I could request the Honourable Second Official Member to make the consequential amendment in clause 35(3) with the deletion of the letter “a” as it appears in the third line thereof.

The Clerk: Clause 36 Medical care for employees of the Authority and the applicability of Health Insurance Law 1997.

The Chairman: Honourable Minister.

Hon. Gilbert A. McLean: Madam Chairman, I move that clause 36 be amended in paragraph (b) by repealing the words “(except to the extent otherwise agreed)” and substituting the words “unless otherwise notified by the Authority”.

The Chairman: Thank you, the amendment has been duly moved. Does any Member wish to speak? If not I will put the question that the amendment do stand part of clause 36.

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

Ayes.

Agreed: Amendment passed.

The Chairman: I put the question that the clause as amended stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause 36 as amended passed.

The Clerk: New Clause—14.

The Chairman: Honourable Minister of Health.

Hon. Gilbert A. McLean: Madam Chairman, I move that the new clause 14 as set out in the first notice of committee stage amendments circulated on the 26 June 2002, be withdrawn.

The Chairman: The amendment has been duly moved. The question therefore is that the new clause be withdrawn. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: New clause 14 withdrawn.

The Clerk: New clause—37.

The Chairman: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Madam Chairman, I move that the Bill be amended by inserting the following clause after clause 36. Clause 37 would thus read—

“37. The Authority shall charge, for services provided at health care facilities, the fees imposed by the Health Services (Fees) Law 1999 and the regulations made thereunder until new fees are imposed under section 16 of this Law.”

The Clerk: Fees of health care facilities.

The Chairman: The new clause has been moved and is deemed to have been read the first time. The question is that this clause be read a second time.

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

Ayes.

Agreed: Clause be read the second time.

The Chairman: The question also is that the clause be added to the Bill as a new clause 37. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Clause be added to the Bill as clause No. 37.

The Clerk: Schedule 1.

The Chairman: Honourable Minister I believe that you have an amendment to schedule 1.

Hon. Gilbert A. McLean: Madam Chairman, I move that schedule 1 be amended— by inserting two asterisks before the words “Dr. Hortor Memorial site” and by deleting the word “offices” and substituting therefor the word “buildings”.

The Chairman: The amendment has been moved. Does any Member wish to speak thereto?

Ms. Edna M. Moyle: Madam Chairman.

The Chairman: Member for North Side.

Ms. Edna M. Moyle: I would just like to ask the Honourable Minister to assist me here where we have North Side Health Care Centre with an asterisk, and that asterisk says ‘does not include land occupied by the Primary school and the Town Hall’. My question is: What is the position with the Craddock Ebanks Civic Centre that shares parking facilities with the Dysa Brown Health Care Centre? Is that also not included in this that will be vested in the Health Services Authority?

The Chairman: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Madam Chairman, I did not quite get what the Member raised. The Craddock Ebanks Civic Centre is somewhere to the west of the Health Care Centre, but it would certainly be excluded as well. That would not be included in my opinion.

Ms. Edna M. Moyle: Madam Chairman, if I may with your approval.

The Chairman: Please proceed Member for North Side.

Ms. Edna M. Moyle: The asterisk, Mr. Minister, says: North Side Health Care Centre does not include land occupied by the Primary School, which I assume means the North Side Primary School and the North Side Town Hall, which is no longer a town hall, it is now the North Side Library. However, it says nothing that it does not include the Craddock Ebanks Civic Centre because I think the Dysa Brown Health Care Centre (which should be changed in this Law) is not the North Side Health Care Centre and the Craddock Ebanks Civic Centre occupy the same piece of land.

The Chairman: Honourable Minister for Health.

Hon. Gilbert A. McLean: Madam Chairman, now I understand what the Honourable Member is saying. I do not know the procedure, which it would take at this point in time, to include that it excludes the Craddock Ebanks Centre, but I would have no problem with it if that would clarify the situation further. As I understand it she is saying that the whole parcel of land holds

these two buildings so I would have no problem with it if at this stage we could enter to add that.

It has been suggested to me by the legal advisor that if we added a second asterisk it would capture what the Member wishes to do.

The Chairman: The Elected Member for North Side do you have a follow up?

Ms. Edna M. Moyle: I really do not agree with that suggestion. I would rather see it written out that it does not include the Craddock Ebanks Civic Centre because those two buildings occupy the same piece of property.

It is going to say that it does not include land occupied by other Government buildings; well maybe we should just say that for everything instead of naming out the town hall and the primary schools.

Hon. Gilbert A. McLean: I think, Madam Chairman, that instead of naming out all of the buildings, although in this case it does refer to those two, it is trying to capture or make it absolutely clear that it does not include the other buildings other than that.

Ms. Edna M. Moyle: Madam Chairman, I have no problem with that suggestion, but if I could ask that the North Side Health Care Centre in this Law that occupies Block 49B—can it be referred to by its name, the Dysa Brown Health Care Centre? Is that possible?

The Chairman: Honourable Minister of Health would you like two or three minutes suspension to formulate the amendment so that we can reconvene?

Hon. Gilbert A. McLean: Yes, Madam Chairman, I would have to consult with the Permanent Secretary to see what appears in our records as the name of it. I was not really aware of what the Member is saying. If you would just pause for two or three minutes that would be fine.

The Chairman: Perhaps now we will pause for three minutes and if Members, unless it is necessary, could remain in their seats so that we could expedite the process as soon as possible thereafter.

Hon. Gilbert A. McLean: Yes, that would be fine.

The Chairman: Member from East End, remind me when we come back, unless you have a question on the same point.

Mr. V. Arden McLean: Yes, Madam Chairman.

The Chairman: Please proceed. Minister for Health I believe he has a question in the same area so perhaps we would take that.

Elected Member for East End.

Mr. V. Arden McLean: Thank you. It is merely a comment to assist us and maybe a question will come out of it.

We have just added an asterisk to the Doctor Horter Memorial site, which does not have primary school or a town hall on that site. The definition of one asterisk does not include land occupied by primary schools and town halls which would go for the West Bay, North Side and Doctor Horter Memorial site. Then we have two asterisks and the definition of two asterisks is, does not include land occupied by other Government offices so there has to be some other form of definition put in there as well.

Dr. Horter Memorial site will have two but we have to identify the North Side with the different means of identification because it also has the Civic Centre on that. Unless we put two asterisks for all of them then you do not need the other one.

The Chairman: We will take our two minute suspension at this time and wait for the Minister to respond.

(Pause)

Hon. Gilbert A. McLean: The advice to me is that we need to be careful in that we need to make sure the name given on the plans that was approved is correct and it is one of the reasons why the Block and Parcel is here to clearly identify that. However, what I would propose is that one asterisk be removed and for those items listed that there be two asterisks, which is clearly defined at the bottom, and remove the line with one asterisk which says, “does not include land occupied by the primary school and the town hall”.

The Chairman: The amendment has been duly moved, does any Member wish to speak thereto? I will put the question that the amendment stands part of Schedule 1. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Amendment passed.

The Chairman: I will now put the question that Schedule 1 as amended stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Schedule as twice amended passed.

The Clerk: Schedule 2.

The Chairman: The question is that schedule 2 do stand part of the Bill. If there is no debate I put the question that schedule 2 stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Schedule 2 passed.

The Clerk:

Schedule 3	Ownership performance measures.
Schedule 4	Forecast financial statement.
Schedule 5	Half year statements.
Schedule 6	Annual financial statements.

The Chairman: The question is that schedules 3 through 6 stands part of the Bill. If there is no debate I will put the question that schedules 3 through 6 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Schedules 3 through 6 passed.

The Clerk: A Bill for a Law to establish the Cayman Islands Health Services Authority to take over, own and operate Government Health Care facilities in the Islands and for Incidental and Connected Purposes.

The Chairman: The question is that the Title stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Title passed.

The Chairman: The question is that the Bill be reported to the House. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: That the Bill be reported to the House.

The Chairman: That concludes proceedings in committee.

House resumed at 6.05 pm

The Speaker: Please be seated. Proceedings of the House are resumed.

Is it the intention of the House to commence the debate on the Constitutional Commissions Report, or can I have a motion for adjournment?

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, we propose to take the adjournment of this Honourable House at this time and I do propose the adjournment until 10 am tomorrow morning, Friday 28 June, 2002.

The Speaker: The question is that the House. . .

Mr. Alden M. McLaughlin, Jr.: Madam Speaker.

The Speaker: Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I do not believe that the Minister reported on the Bill.

The Chairman: That is correct because it is not the intention to so do until another sitting.

Hon. W. McKeeva Bush: Madam Speaker, it is not on the Order Paper for today's meeting. The Opposition has been out so long that they have forgotten about the procedure.

The Speaker: The question is that the House do stand adjourn until 10 am tomorrow, 20 June. All those in favour please say Aye. Those against, No.

Ayes.

At 6.07 pm the House stood adjourned until 10 am Friday, 28 June 2002.

OFFICIAL HANSARD REPORT
FRIDAY
28 JUNE 2002
11. 23 AM
Ninth Sitting

The Speaker: May I invite the Third Official Member [for the Portfolio of Finance and Economics] to grace us with prayers.

PRAYERS

Hon. George A. McCarthy: Let us pray.

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

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

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

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

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

Proceedings resumed at 11. 26 am

The Speaker: Please be seated.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

Apologies

The Speaker: I have received apologies for the Third Elected Member from Bodden Town who is still off the Island with his wife for medical reasons.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

Trends and Factors Impacting the Cayman Islands Economy and the Government's Financial Position

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

The Government fully recognises the need to inform the public on trends and factors impacting the Cayman Islands economy and the Government's financial position. It is hoped that this information will provide residents, business owners and other stakeholders with a keener insight into the scope of the local and international challenges that we must face. I begin with a look at the global economy.

The World Economy

The global economic slow down, which began during the middle of the year 2000, was exacerbated by the events of the 11 September last year. Growth in world output declined sharply from 4.7 per cent in 2000 to 2.5 per cent in 2001. According to the International Monetary Fund's most recent world economic outlook of April this year, world output is expected to accelerate slightly from 2.5 per cent in 2001 to 2.8 per cent in 2002. The United States economy, Cayman's main trading partner, is expected to grow by 2.8 per cent in 2002 compared to 1.2 per cent attained last year.

There are several factors that are shaping this healthier outlook for 2002: -

1. Interest rates are low and are expected to remain low for the rest of the year;
2. The United States Government has embarked on expansionary fiscal policy to finance the war on terrorism;
3. Inflation remains low while consumer confidence remains buoyant; and
4. Business inventories are now low compared to the start of the economic slow down.

While the macro economic environment in the United States appears to be positioned for a recovery certain risks still remain that may impact the pace of economic recovery. These risks include: -

- I. The United States job market remains sluggish. United States unemployment is expected to

increase to an average of 5.9 per cent in 2002 compared to 4.8 per cent in 2001;

- II. The capital markets remain weak due to poor visibility or, in other words, no sign of improvement in corporate profits and concerns over accounting practices;
- III. Most industrialised countries are projected to experience slower economic growth in 2002;
- IV. Oil prices have crept up steadily since the start of the year, as tensions in the Middle East showed no sign of abating.

Prospects for the Cayman Islands

I move on now to prospects for the Cayman Islands, the second half of 2002. The Cayman Islands is certainly not immune to these external economic factors. Growth within the local economy is expected to remain sluggish in the second half of 2002 based on the assumption that the global recovery will not be robust. The anticipated growth for the Cayman Islands in 2002 is 1.9 per cent.

Inflation is expected to increase from a low of 1.1 percent in 2001 to 2.4 per cent in 2002. Unemployment, which usually lags behind economic growths, is projected to decline from 7.6 per cent in October of 2001 to an average of 6 per cent for 2002. The 2001 labour force survey was conducted in October and therefore includes the effects of the 11 September of last year. The reduction in the unemployment rate anticipated in 2002 largely reflects a return to the pre-11 September position. Despite the projected improvement in unemployment, the level of unemployment in the wholesale and retail and financial services sectors are projected to decline.

The Employment Services Centre has indicated that the unemployment level as at the 21 June 2002, stood at a total of 727 persons unemployed at that time. This figure does not represent those recent graduates who may choose to seek employment at this stage. It is therefore safe to say that the unemployment rate could increase beyond the current level.

The Honourable Minister for Education and Human Resources and the Employment Services Centre are working to address this problem. Among their efforts are three main programmes, (1) Bridge to Work, a programme to divert recent high school graduates to continue their education part time and to enter apprenticeships; (2) Fresh Start, a short but intensive programme to strengthen the core skills of those 727 persons who are currently unemployed. This programme focuses on such areas as resumé writing, basic Business English and Mathematical skills and customer services; (3) Investors in People, a programme which offers employers incentives to give priority to staff training.

These are but some examples of how this problem is being addressed. There will be more in-

formation to follow from the Ministry for Human Resources and the Employment Services Centre.

In the international policy arena the Government has long said that the future of the Cayman Islands is being determined not just by discussions on these shores but also by deliberations overseas, which impact our interest. The European Commission has over the years proposed a variety of measures related to direct taxation. As part of a general agreement on taxation matters reached among European Union governments in June 2000, the United Kingdom agreed to promote the adoption of the European Union's Draft Directive and the taxation of savings income among its Caribbean Overseas Territories including the Cayman Islands and the Crown dependencies.

This Draft Directive, if adopted, would require the European Union Member States and any other jurisdictions, which go along with the proposals to implement measures for the automatic exchange of information related to specified savings income of European residents at a date no later than 2011.

The European Union is hoping to persuade a number of independent countries including Switzerland and the United States of America to adopt similar measures, and has opened discussions with those States. It is understood that these discussions are in their early stages, and that if the United States and Switzerland do not agree to co-operate, according to the time line agreed last year by the European Member States, then the Draft Directive will not proceed in its current form.

Although the United Kingdom wanted the Cayman Islands and other Caribbean Overseas Territories to give a commitment to support the Directive, it was determined in a meeting in London that it was not advisable to do so, absent appropriate consultation with our financial industry. To act at this stage without the ability to assess the impact this initiative could have on our economy, could place our financial industry at a significant disadvantage relative to our competitors.

Madam Speaker, it is important to note that the Cayman Islands had an opportunity in 1999 and again in 2001 leading up to a cut off date of August 2001, to make effective representations on this matter, and the respective leadership of the day failed to do so. As stated during our recent meetings with representatives of the United Kingdom's Treasury Department on the subject, the Cayman Islands will be engaging in dialogue with our financial industry with a view to gathering facts, which will allow us to determine what is in the best interest of the Cayman Islands.

The Cayman Islands through a sub-committee of our National Advisory Council, is also actively engaged in gathering information regarding the implications of this Draft Directive for both the private public sectors, which include discussions with representatives of our private sector. It is anticipated that these

discussions will proceed over, at least, the next six months, and updates will be provided to the financial services sector at appropriate times. However, we are already aware that should the Cayman Islands be forced into an agreement that added to the administrative burdens of our financial industry to collect the information necessary to give effect to the taxation of savings directive, it would be giving an advantage to our competitors. The disastrous impact could affect not only banks, but also mutual funds administration, the captive insurance industry, shipping and other areas of our financial industry. It will have wide-ranging effects on our financial services sector.

The Need for Additional Government Revenue

Any responsible government strives to ensure the state of public finances is in a healthier position at the end of its administration than it was when its term began. While this is a challenge at any time, it is particularly challenging when the local and world economies are struggling. However, this Government has set this goal and has taken steps to achieve it. The Government sees a great need to increase the level of the Islands general reserves for the long-term. The un-audited accounts from the Treasury Department shows that general reserves were \$4.2 million as of the 31 December 2001, which represents five to six days of recurrent expenditure that are budgeted for 2002.

While this Government knows clearly that general reserves are not meant to fund recurrent expenditures, this comparison between general reserves and recurrent expenditures is simply made to illustrate that public finances were in a poor state when this Administration took office on the 8 November 2001.

Madam Speaker, Government is therefore committed to improving the current level of general reserves. There are two ways this can be achieved, (1) to continue to control expenditures, as we have been doing, and (2) to increase the amount of revenues flowing to the Islands' coffers, and transfer any resulting surpluses to general reserves.

Government has repeatedly stated that it does not intend to impose any additional revenue enhancing measures on the Islands' traditional income sources, that is, the financial sector and customs duties. As a government we stand by this commitment. Government, therefore, needs to find new sources of revenue and this must be done now.

The strategic policy statement that will be laid in this Legislative Assembly within the next few days states that one of the strategies proposed by the Government for shaping the 2003 and subsequent years' budgets, is to let revenues increase in line with economic growth rather than impose additional new revenue measures. By this we simply mean that no new revenue measures are planned for our existing revenue base. Nonetheless, the Government does intend to find completely new sources of revenue other than

the traditional means of taxing our people. Hence, the Government's quest to find new sources of revenue stems from the noble goal of wanting to improve the level of our general reserves. The government will endeavour to find innovative sources of revenue that do not have the effect of removing valuable resources from our existing economy. New revenue bases must come from sources external to our present local economy. How can this be done quickly and yet be in line with our goal for long-term sustainable growth?

Madam Speaker, we have been talking about the proposed new dock and the road that will be needed when the new dock comes into operation. The Government has received two proposals from the private sector for funding and building the Half Moon Bay Harbour project, a mega yacht facility and the associated four-lane highway from East End through George Town to West Bay. The Government is currently in the process of evaluating the contents of these proposals. The Government has always believed that the creation of this project will improve our infrastructure; will lead to a diversification of our economy and inject needed long-term capital into our economy.

The mega yacht facility, which I now understand is attached to the project, will bring the kind of tourism that the Cayman Islands cannot currently attract or cater to. A mega yacht basin will provide the facilities for repairs, stores and other services and amenities, which will only enhance Cayman's business sector. This would be most welcomed, particularly at a time when Caymanians are out of work and our financial and tourism sectors are under great stress.

The Government is pleased to see that the private sector has heeded its call to *step up to the plate* and to assist in providing funding for such a critical aspect of our future infrastructure. Several months ago when the private sector announced its plan to complete a feasibility study and donate it to the Government, there was a cry from some sectors of the public regarding the potential cost that the Government would incur to complete the study and the project. Well, I am happy to announce today that the Government has received these two proposals for the design, financing and construction of the project, inclusive of the road from East End through to West Bay. The Government will consider these proposals along with the study upon its completion shortly. But I can say that the proposal is one where the Government would not have to borrow or guarantee any loan for the project.

I would also like to take this opportunity to announce that the Port Authority has agreed to operate the existing George Town dock at night starting as soon as possible. While there will be extra cost associated with this, we are willing to try this as a short-term solution to the ongoing conflict between the use for cruise passengers versus cargo facility.

Madam Speaker, we are spending approximately \$4 million in rent annually and Government

must now address this long-standing problem. The Minister of Planning (the Deputy Leader) has been working since December 2001, to define the economic appraisal of the Government's office accommodation project. On the 20 June he received a report from the Economic and Research Unit of the Finance Department on the matter. Before the final report is issued the following areas need to be further analysed: 1) The estimation of future demand for office accommodation, including the final plan with respect to the Glass House and the Tower Building; and 2) The likely terms of any financing agreement.

The Minister currently has several proposals to deal with the Government Office accommodation project. Other information will be forthcoming shortly from the Minister, however, we intend to move as expeditiously as possible to have completion by year-end 2003. Of course, we will have to fast track this project in the best interest of these Cayman Islands.

The Airport has been slated for development, which includes an extended runway, a parallel taxiway and an upgraded terminal building, which is more user-friendly with at least two jet ways. This includes a much improved and more passenger friendly general aviation terminal where private planes and passengers must be handled. It is obvious that our present Airport facilities are not up to par in dealing with traffic. In order to keep pace with the needs and demands of the travelling public and the safety standards that are required of the Cayman Islands in these troubled times, we will address the Airport needs as a matter of urgency. This is also a project to be put on fast track.

Madam Speaker, while Government does not have the wherewithal financially to develop these projects on our own (and it is not the policy of this Government to further weaken our financial position by trying to borrow more) we need to be innovative in finding alternative solutions to old problems. We will work in partnership with our private sector who has the ability to design, finance and build these government projects. The Road programme, which envisions a four-lane highway from East End through George Town to West Bay, will be tied to the Port project. This is a massive capital development programme that will help fuel the local economy.

While there has been some opposition to this project, as a country we no longer have the luxury of delaying or trying to get unanimous consent on every issue. While we debate the fine print the economy is slowing and opportunities are lost. Even under the best scenario these projects will take time to execute. However, we will construct this vital infrastructure on a programme of shared revenue generated from the Port Authority and Civil Aviation Authority, as these are the two projects that are being enhanced for the betterment of all the people of these Islands.

It goes without saying that solutions that are never started cannot be realised. As a country we now need to focus our efforts and the precious time we are given towards creating solutions. If we cannot allow

ourselves to *think outside the box* as it concerns our revenue base, then we are trapped to resort to the same traditional measures that are used by successive governments and those which hit the consumers hardest.

This does not mean that there should not be consultation, debate and, yes, constructive criticism. In fact, we welcome this dialogue. However, there must be an emphasis placed on finding solutions. We must exercise due caution but we must move ahead and fast track these projects if we are going to realise the much needed short, medium and long-term economic benefits for the Cayman Islands.

Madam Speaker, the financial services sector in this country has been hammered in recent years. Tourism was on a downward slide since 1998, and the 11 September only worsened our situation. People are unemployed and small and large businesses are hurting. We must get on with the business of problem solving.

The Constitutional Review and ensuing debate until now has taken far too much of our precious time. I must say to the country that once the debate is concluded here in this Legislative Assembly, we will send it to London and will not devote any more time to it until such time as Her Majesty's Government comes back to us for consultation or otherwise. We must now deal effectively with the serious problems facing the financial services and tourism, education and health service, low-income housing and sustainable employment for all our people. This is our task and we must fulfil our obligations to our country and get on with the job. These are the most serious external and internal pressures that we have ever faced and that any government has ever acknowledged. I say to the country: Let us now get on with the job.

Madam Speaker, I thank you for your indulgence on this long statement and that of this Honourable House. Thank you very much.

The Speaker: Thank you, Honourable Leader.
The Honourable Third Official Member.

Press Release: Financial Secretary says Cayman Islands Dollar Stands Firm

Hon. George A. McCarthy: Madam Speaker, thank you.

One of the most insignificant underpinnings of any country's economy is its currency. Any discussion on this very important subject is always very delicate and one that should not, under any circumstances, give rise to speculations. As a result of another article appearing in today's issue of the *Cayman Net News*, my Office has found it necessary to issue the following press release this morning, and the caption of the press release reads, "**Financial Secretary says Cayman Islands Dollar Stands Firm.**" **And I will read: "Neither the Cayman Islands Government nor the Cayman Islands Monetary Authority has**

any intentions to devalue or re-value the Cayman Islands dollar”, says *Financial Secretary and Chairman of the Cayman Islands Monetary Authority*. “Any information to the contrary is totally false”, he continued. “Persons engaging in such speculations are expressing personal opinions that bear no relation to the official position of the Government”. The Financial Secretary’s comments follow reports in certain media namely, *Cayman Net News* that devaluing or revaluing the Cayman Islands dollar is an option to improve the economy. The Financial Secretary has noted that the local currency in circulation is backed one hundred per cent by reserves denominated in United States dollar and CI dollar currency is fixed to the US dollar at the rate of CI\$1 being equal to US\$1. 20.

With this strong backing the Cayman Islands dollar provides investors and the local economy with a stable monetary regime. This has been the case since 1971 when the Cayman Islands currency board system, which operates under the strictest form of monetary regulation that a country can employ, was established.

Madam Speaker, I will just add briefly that it is well-known that there are quite a number of investors and quite a number of Caymanians who have their savings, fixed deposits and other assets denominated in Cayman Islands dollar. Since 1971 this has been a very stable currency and it will continue into the future. The Cayman Islands dollar is backed 115 per cent for every Cayman Islands dollar in circulation and that backing is mainly denominated in US dollars, which is a very stable currency.

Madam Speaker, I trust that this will now put to rest the quotes that are being given and the views that are being taken by various persons in the community. And I would suggest that at this particular point in time that other issues for debate should rise to the surface and not the Cayman Islands dollar. Thank you very much, Madam Speaker.

The Speaker: Thank you, Honourable Member.

GOVERNMENT BUSINESS

BILLS

REPORT ON BILL

The Health Services Authority Bill 2002

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

I have to report that a Bill shortly entitled, The Health Services Authority Bill 2002, has been duly considered by the Committee of the whole House and passed with amendments.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

THIRD READING

The Health Services Authority Bill 2002

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Madam Speaker, I beg to move that a Bill shortly entitled, The Health Services Authority Bill 2002, be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled, The Cayman Islands Health Services Authority Bill 2002, be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Cayman Islands Health Services Authority Bill 2002 given a Third Reading and passed.

MOTIONS

Amended Motion to Debate and Take Note of the Report of the Constitutional Modernisation Review Commissioners 2002

(Continuation of debate thereon)

The Speaker: Does any other Member wish to speak?

The Second Elected Member from West Bay.

Mr. Rolston M. Anglin: Madam Speaker, I thank you for this opportunity to offer my contribution to a most important Motion.

I would like to start by congratulating the Constitutional Commissioners namely, Mr. Benson Ebanks, Chairman, Mr. Leonard Ebanks, a member and Mr. Arthur Hunter, a member, for the job that they did in regards to the task at hand. Certainly, their task was not an enviable one because within the Cayman Islands there seem to be a number of dominant views when it comes to the issue of our Constitution.

Firstly, it is almost seen as a holy, untouchable piece of legislation, and so there are those who shy away from it. Secondly, there is also a dominant view that it is a complex and tedious piece of legislation, which is difficult for the average citizen to understand. And because of the intimidation factor, a lot of people do not necessarily care to be involved. For example, when the Constitutional Commissioners went to certain constituencies the number of people who turned out were much less than the number of

people showing up to their meetings that were on other issues that people found a lot more comfortable to voice an opinion on; to hear discussed and explained to them, and to then formulate an opinion or to amend the opinion that they came to the meeting with. When the Commissioners came to my constituency in West Bay, the turn out was less than the turn out at the meeting that my colleagues and I had on the national airline—Cayman Airways. Madam Speaker, I say that because it is a very important part of any consideration and any debate involved on the Constitution. I think it is a stage that needs to be set and agreed on. There are not many things we can get consensus on in life, but I think we can all agree that that is the general feeling within the Cayman Islands when it comes to the whole issue of Constitutional debate on the modernisation.

I would like to discuss a number of issues in detail as it relates to our position, that is, the Government's position versus the Commissioners' position. I would like to explain some of the finer details of these issues and show precisely why the Government has taken the view that we have taken.

First of all, I think it is fair to say that one issue that has caused much controversy and public debate is this whole issue of single member constituencies, also referred to as 'one man, one vote'. Madam Speaker, I can stand here and honestly say that the only issue that my constituents have come to me and voiced an unequivocal position on is this issue. The essence of this issue is relatively easy to understand and so I think that too lends to a person's ability and willingness to come forward and state an opinion.

Madam Speaker, no one in my constituency came to me personally and stated that they support 'one man, one vote'. At the public meeting that the United Democratic Party Government had in our constituency, we did a poll of those who were there, and we handed out the poll before we started the meeting in order to make sure that people who so desired could vote at any juncture in the meeting, and not necessarily give our perspective. But we hoped that most people would have waited to hear the debate by the members that night before they voted. Overwhelmingly, it was, I think, 70 per cent of them who stated that they did not support the concept of 'one man, one vote'.

Now, Madam Speaker, we would look at this issue—and as some of my colleagues and fellow Party members have already said—the essence of 'one man, one vote' is something that is well enshrined within our form of governance in other jurisdictions. We have to look at the issue a bit deeper and make reasonable consideration. First of all, I personally believe, and the Party believes, that if we, in our daily movements and at our public meetings get a view coming forward that is different from the view taken by the Constitutional Commissioners, that gives us more than ample right; it gives us an obligation to share that view with the general public. We have been

told by the public that they do not support the concept of 'one man, one vote'. Why do they not support that concept? The most common explanation that I have heard and that people have said to me is, '*I want four votes. If I call you and I cannot find you I want to know that I can call Mr. Glidden or I can call Mr. Ebanks or Minister Bush*'. In fact, the order is the other way around—it is usually persons who try to reach Minister Bush, and if not successful because of his travels and other obligations as Leader of Government Business, then they call one of us for whatever particular issue they so seek to discuss.

People look at 'one man, one vote' and say, '*If I am in a single member constituency and if I now have one person to call I do not feel as though I have the type of representation that I am used to*'. Now, on these issues that you can debate point and counter point, certainly we can see that the general view that I have just explained is not necessarily a solid view to hold. It is a good view, I believe, because it is factually correct: In a single member constituency you vote for a single representative that you take your issues to. Certainly, persons have access and the right to any other representative, not only in their district. But let us face the reality: The way the Westminster system is designed is that you have a single member that the public feels most comfortable with so that is the person whom they will feel most committed to. And so, we see the dilemma. There are also those in my constituency who hold the view that it is undemocratic.

Let us forget for a minute about the boundaries that the Commissioners have established in West Bay and make it simpler. For instance we have West Bay north; east; south and west: A person who lives within the proposed constituency of West Bay east argues that if the person they most want to vote for is in West Bay south, it takes away their right in terms of what they came to know as their district. Certainly, you could extend that argument nationally and say well, what if you do not have anyone in your district that you would want to vote for. But I think it is fair comment to say that most people have person(s) within their district during just about every election over the last three decades that they supported or were willing to support. So, people feel as if something is being taken away from them and they do not want that. Hence, the reason for the UDP saying that maybe what we should do is to take our time with this transition.

It is quite interesting to note that the Leader of the Opposition that was brought here from the Barbados Parliament supports 'one man, one vote. It is also interesting to note that the persons responsible for organising his visit here purposely picked him and purposely picked that jurisdiction. What would be very interesting is for an explanation to be given as to why a jurisdiction like Bermuda was not utilised.

I think it is fair comment to say that over the last few years the Cayman Islands have been compared with Bermuda. There are a lot of reasons for

comparing ourselves with Bermuda: It is slightly bigger than we are - we have some 40,000 people, they have some 60,000 people; they are also an Overseas Territory so their constitutional status is not that of an independent country as is Barbados. But I will answer the question that I just posed by saying that within Bermuda, 'one man, one vote' is still not fully implemented. So, even though Cayman is always being compared with Bermuda—I do not think most people could reasonably tell the last time they have ever heard Cayman being compared with Barbados with anything—it was quite convenient for the Opposition to organise a meeting for a person coming from Barbados and not Bermuda, because the person coming from Bermuda would not have been able to come here and report what a parliamentarian from Barbados would have reported. So, it would have been convenient for their argument.

Bermuda is the second oldest parliament in the entire Commonwealth (next to the British Isles). So, they have had representative government years before Cayman and they still have not reached 'one man, one vote'. Now, certainly it is fair comment to also say that the reasoning in Bermuda may not be identical to Cayman but none-the-less, the bottom line is, they still have not reached that level of political development—even though we know their constitutional situation is so much more advanced than Cayman's, and indeed more advanced than any other Overseas Territory.

So, it shows that [the concept of] single-member constituencies is not something that is embraced everywhere. But it also shows that there are others in this world who also recognise that it is not a panacea. The Opposition member from Barbados, and indeed many persons who claim to know constitutional and political development and structures, argue that we should have 'one man, one vote' because you do not want one charismatic leader *bringing in people in on his coat tails*. I would ask those persons to explain clearly to the public then why is it they have those Parties in the first place? Because the Westminster model in the majority of Commonwealth countries does have 'one man, one vote' and does have political parties.

Let us look at the United Kingdom. Do we not believe that each Party tries to find the most charismatic leader to choose within their Party? Are we going to suggest that Margaret Thatcher did not bring people into the Parliament of the United Kingdom? Because persons went to the polls and voted based on her perceived leadership styles and abilities. 'One man, one' vote has nothing to do with people *coming in on other people's coat tails*. In fact, my personal opinion is quite the opposite and I will use my constituency as an example. In my constituency of West Bay the Honourable Leader of Government Business received approximately 1500 votes in the November 2000 election. I received approximately 1000 votes. The Third Elected Member received approximately

900 votes and the Fourth Elected Member received approximately 800 votes. Now, let us think about this rationally and logically. There were persons in that constituency of West Bay who said to the Leader of Government Business and other members of our Better Balance team, *'I am going to support you but I might not support the other guys'*. We call that 'split votes' among the various teams or parties.

When we were presented with that issue, of course, we campaigned for our colleagues, but at the same time that person knew they could vote for the person they chose. Let us go to single-member constituencies and say that a person who supported Minister Bush lived in one of the other three constituencies, what was that person's choice then? Under the current system they could just vote for Minister Bush alone or any one of the other people. But if it were single-member constituencies and they lived in a constituency other than Minister Bush's, and they truly believed in his cause, what choice would they have? To not vote or to vote for the person that he ran with. But if that person truly believed in him and wanted his particular manifesto to be the agenda to go forward in terms of the leadership in our district; if they believed in what we were trying to do and say in our meetings and our manifesto, then that person, more than likely, would have voted for one of his colleagues in that other constituency.

Madam Speaker, I will go over that point once more because it is a point that may not be easy to follow: In the district of West Bay a person could easily and with good conscience tell Minister Bush or myself or one of the other colleagues, *'Look, I am supporting you and x, y, z candidates'*. Let us use a family member or a close friend who believes in you – that person could say to me, *'Yes I am going to support you but I am not going to support anyone else'*. I could campaign all I want but at the end of the day would I risk losing that vote for myself? Of course not. I would have never taken it that far but I may have taken it that far if that person lived in another constituency, because they could not vote for me in the first place anyway. So, I would say to that person, *'If you believe in me then I need you to support that member that I am running with in my other constituency'*. And so, the dilemma for that person is much more acute.

This panacea that some of these pundits seem to believe will cure flamboyant leaders, they themselves do not realise that our system is built on flamboyant leaders! 'One man, one vote' is predicated on political parties first of all and it is predicated on flamboyant leaders being able to stir the masses; to vote the party line; to vote his agenda; his vision; his manifesto. But ultimately one should pick a leader. *The leader has to lead*. This business about *coming in on someone's coat tail* I believe becomes much more acute during 'one man, one vote'. People in the district of West Bay—the family make up will always be there; the friendships will always be there. You can split it up as much as you want, I am simply saying, for those

who think that that is somehow going to diminish the power of political figures in constituencies, I believe they are absolutely wrong.

Critics would then say, 'Well if you believe it is to your advantage why are you not supporting it?' I have already outlined two issues. Firstly, the persons in my district, based on the feedback, do not support 'one man, one vote'. Secondly, we do not have well-structured political parties in the Cayman Islands. Let us use another example, under the current system that existed in November 2000, we would have had political cannibalism and the country would take a step backwards. Let me explain why: People are going to judge you based on what you get done in your constituency—that is life. We can try and fluff this up and talk about this any way we want to, but at the end of the day people want a good country but what people care about is their immediate surroundings.

Yes, people in George Town and the other districts might feel good about the beautiful Park that we have in West Bay but those people want a good Park in their district too. The same thing will happen and become more acute with 'one man, one vote'. What happens then when we have to place the new library in West Bay? Is it going to go in my constituency? Is it going to go in any of the other Elected Members from West Bay constituencies? Where is it going to go? We all want to look good. Let us face the reality, politics is politics. Leadership predicates numbers.

In the finance industry the return is the percentage gained on capital in broad terms. The return in terms of this profession is votes. Votes are what count at the end of the day. You win or you lose. So, how do you decide then? If we have 17 constituencies in Cayman with 17 totally separate members who go into a 'marriage of convenience,' obviously, to form the government—because you will need to form a government but how do you distribute the resources in the country? Anyone who gets up and says that is not an issue is lying, and that is my humble opinion, Madam Speaker. No one can truthfully say that the distribution of resources would not have a tremendously negative effect on a country that is already struggling financially, which is another reason why the UDP is suggesting to implement this over a period of time. Let us get our political organisation mature enough to deal with it.

Let us look forward in the future, say eight years from now when political parties are mature in Cayman, what then happens in West Bay? Well, what happens is the Party decides on which constituency in that district the library would go. Now, I feel a lot safer in my constituency because I know that I can get up when the Party comes to my constituency during campaign time and we can say that we got a library for West Bay. It is five minutes drive from the people's house in my constituency, so they are happy that they now have a library. But absent of party politics when you can collectively bargain with the public and say,

'Here is what we have done' and be able to support one another, it is human tendency to look out for number one irrespective of certain consequences.

So, everyone is going to want a library in his or her constituency; everyone is going to want to have a health clinic in their constituency. There are those who will get on the talk show and say, 'There he is again trying to frighten the people'. I want them to refute the argument with logic and not just with emotive response.

Madam Speaker, let us deal with this issue of the implementation of the Constitution. I find it quite quizzical that the majority of people in this Parliament if asked, 'Does this proposed Constitution have benefits for the Cayman Islands and its people?' would say 'yes, there are benefits to be derived'. I think I can speak for every elected Member in this country at this point in time. So, if there are benefits to be derived why is it that we are going to hide them behind our back for the next two and a half years?

If I wanted to play politics as usual and be a coward I would not expose to the public my support of the Constitution and that I support us moving forward once we have received the draft from the United Kingdom; once we are then able to have dialogue with the public and ensure that everyone is comfortable with where we are. Just to go off on a slight tangent: My humble opinion is that anything that we are not sure about then we leave the status quo. That is my position and that is the Party's position. For example, the People for Referendum said that the issue of 'one man, one vote', is a controversial issue. If it remains a controversial issue once we get back a true draft Constitution and not just something that is proposed, then I recommend we leave the status quo. Because the status quo is what is here now. If people were not up and having demonstrations in the street to change it a year or two ago, then why change it? If what exist is so bad certainly those same people would have wanted a referendum a long time ago.

So, Madam Speaker, we cannot have these convenient debates anymore, we have to *call a spade a spade* and talk seriously and honestly with the public. That is what I am trying to do.

The Speaker: Honourable Member, is this a convenient time for the luncheon break?

Mr. Rolston M. Anglin: Madam Speaker, I would rather finish my point on the implementation . . . five more minutes.

The Speaker: Please proceed.

Mr. Rolston M. Anglin: So, if we know that what will probably come forward from the UK is going to have benefits in it for our people, why would we hold it back for two and a half years? I do not hear anyone saying there should not be a Chief Minister; there should not be accountability; that there should not now be one

captain on the good ship—Cayman. This has been told to us from 1955 by the administrator of the day. It is in the records of this House where he said he could not understand how people with such a seafaring heritage who knew how important it was to have one captain, were satisfied at the time with a number of captains at the head. In fact, I think it was in 1976 when the then administrator or Governor Crooks said that.

So, the people of Cayman seem to be now ready for that change. Let us take a step back from it and say *'Okay what is that change going to bring about?'* First of all it is going to bring about responsibility. No longer will people in politics, including myself, be able to get up and say, *'Well you see I am not really the Chief Minister, I am just the Leader of Government Business, so you really cannot blame me for this, I really could not do it, I do not have any authority'*. It brings about accountability.

Certainly, the President of the United States is not single-handedly responsible for a good economy nor is he single handedly responsible for when the economy is bad. But those are the perils of leadership. When you take on leadership you recognise that there are many factors outside your control but you ultimately will be held responsible—yourself and your Party. So, I stand here and say to the Members in the Chamber that we (the UDP) support the move recognising the tremendous downside there is for us. My! How easy it would be to go to the polls in 2004 and talk a good talk and ask for votes and be able to hide behind that impenetrable shield, as has conveniently been done in this country over the years, and say, *'You see, the Constitution does not give me real authority so I could not effect the changes you really wanted me to effect'*. Why should the public have to wait another two and a half years for that? But by the time we [would have waited to] get to that stage it probably will be a year and a half. We do not know how long this process is going to last, but why should the public have to wait?

We recognise that we are taking on a tremendous political risk, especially with the climate that we are in. We are in an economy that is slumping; we have an economic situation in this Island that is not easily stimulated because we are so dependent on outside factors such as the United States economy. But we are willing to do what is right despite what the naysayers say. And I wish the Opposition were here to debate because it would be interesting to hear what their counter argument could possibly be to that point.

We are willing to take on that type of political risk for the general good. We recognise that our children and grandchildren deserve this type of system. We deserve it too but at the end of the day we are worried about the legacy we are leaving behind. We do not want to leave behind the type of legacy that existed in November 2000. That is not what we want to leave behind—when the government is formed over a pot of turtle stew and some breadfruit. And I say that in all seriousness. Madam Speaker, this is my last

point before we take the break. I have to now replay in the minds of people an event so that they can appreciate more the position that the UDP has taken.

Madam Speaker, when the public goes to the polls with no idea of who the leaders will be; no idea of who the executive council will be; voting blindly—it is like shutting down all the current in Cayman and telling a person to take a stab in the dark and hope you hit the target. That is basically what the public did. They voted us in West Bay as a four-team party expecting the Honourable Minister (the Leader of Government Business) to be in Executive Council. That is how we campaigned in West Bay . . . we said it on the platforms, it was no secret. We said that, *'Given the situation in Cayman where everyone is fragmented, send us to George Town four strong so that we can ensure that West Bay has at least one seat on the Executive Council'*. Those were the exact lines we used. If we left the Constitution the way it is and left the political scene the way it is, even though we formed a Party, we recognise that the Party would not work as efficiently as it should unless there is constitutional modernisation.

So when those persons went to the polls they voted blindly. A document was drawn up and the First Elected Member from George Town signed it, the Second Elected Member from George Town signed it, the Third Elected Member from George Town signed it and a majority in this House signed the document and agreed that that was the government. Certain persons in the community were not happy with that—not a majority, the polls had just closed and the ink was still wet on ballots. You know, Madam Speaker, and the Second Elected Member from Cayman Brac knows fully well that you all were sent here with that mandate as well that you would be in the Executive Council. And so you came and negotiated and you both were part of that arrangement. However, a small number of people namely, the inner circle of the First and Second Elected Members from George Town said, *'No, this is not a government that can govern this country. This is not what we want'*. Is that democracy?

The First and Second Elected Members from George Town got up on the Court House steps and had meetings of democracy and threat. Why did they not get up at that point in time and tell their supporters, *'You are threatening democracy! See the majority here a majority has signed it'*. But no, they did not do that; instead they come here and say they want to be leader—one is a leader of the PPM; one is a member of the PPM.

Madam Speaker, I submit that persons with the lack of that type of backbone cannot, in my humble opinion, say that they can be leaders of this country. They signed a document and gave their word and said, *'Here is the new government'*. Yet a handful of people who supported them said *'No'* and they backed down and another 'marriage of convenience' was formed. So 'marriages of convenience' must end in Cayman and the only way for them to end is for a

constitutional modernisation and proper political parties to be instituted, where the person in North Side knows who that candidate is running with and who the leader is going to be if they vote for candidate X. That must be the way it works. So, I submit that the quicker we can implement this system—that we ourselves and the Opposition know, will force us to be more truthful; more open; more accountable and more forthright with the public at the polls—the better off it is for the people of this country.

Let us take a step back: The Opposition says they do not have a view on it. That is not surprising. The First and the Second Elected Members from George Town were the same two persons who signed the document and then broke their word because a small segment of the George Town community said they did not like what they had done. Not a majority! Two thousand plus people voted for them—two thousand people were not in the streets saying that that government should not have existed. I attended the meetings in their chairman's living room; I saw the number of people there who said it. It may have been twenty, at best, that determined democracy in Cayman. So, why would they support our little implementation that is going to force them to now be more accountable to the public?

I end before the lunch break on this: I say to the people of this country to remember the old song that says, *Take time to know her, it is not an overnight thing*. There was some confusion on the 8 November when this country had to be brought in line; when we had to rid ourselves of inadequate leadership. They took advantage of the situation and they got some people to say, *'Yea, they are the victims, they are the good guys'*. I am not here to say to people they should join the UDP, what I am here to say to people is take time to know her; take time to know him; take time to know me; take your time and make your decision. Do not do what we as Caymanians do so often: Emotively respond and get things stuck in our heads . . . take time . . . all sides of this argument need to be heard.

We need the public to settle down and take time because I am convinced that with time and with the continuation of the educational process on the Constitution and all other things that have to do with leadership and representative government, the majority of the people in this country will see that the Opposition is just what they are here today—they are absent; they are empty; they do not offer any viable solution in terms of an alternative government.

The Speaker: Is that your opinion?

Mr. Rolston M. Anglin: Madam Speaker. That is my humble opinion.

The Speaker: Thank you.

Mr. Rolston M. Anglin: Other political parties may come up . . . take your time and decide on us, on our

merits; on our openness; on how accountable we are going to be; on how forthright we are going to be with you in terms of what we say to you the people in this country.

And so the absence of the Opposition here . . . there are those on the talk shows who keep saying we should not be talking about that. Madam Speaker, we should be talking about that, as well as debating the Constitution.

I have now covered two points that we disagree on with the Constitutional Commissioners. I thank you, Madam Speaker.

The Speaker: We will now suspend for lunch and reconvene at 2.30 pm.

Proceedings suspended at 1.49 pm

Proceedings resumed at 3.04 pm

The Speaker: Please be seated. Proceedings are resumed. The Second Elected Member from the district of West Bay.

Mr. Rolston M. Anglin: I thank you Madam Speaker.

In continuing I would like to address the other two main areas of the Constitutional Commissioners' position that the Party (the UDP) does not agree with.

In regards to the definition of a Caymanian, much has been said about that. I think the restrictive nature in which they have defined 'Caymanian' is relatively clear so I would not repeat what my colleagues have already said on that particular issue.

Madam Speaker, in regards to the issue of Speaker and Deputy Speaker, I am not quite sure what it is that we would achieve if we arbitrarily said that the Speaker cannot come from the rank and file of the elected membership. I know the explanation given in the Report in regards to this proposed change by the Commissioners. But let us just take an emotive step back from this issue. First of all being a Back Bench supporter of the Government that existed from November 2000 to November 2001, let me assure all Honourable Members that this whole issue of finding a Speaker is not as simple as some people seem to think because there are not vast numbers of people within our community who are capable or willing to serve as Speaker. And we must have a Speaker within the Legislative Assembly. How else can Parliament function? We could be as restrictive as some people would want us to be in regards to whether or not the Speaker should be a member of a political party and who should elect the Speaker.

Let us face a couple of realities: First of all we in Cayman have to be careful not to do our future generation a disservice. I say to people all the time, *'What you think of me or what you want to think of the current political climate is not going to intimidate me into taking a position'*—as the old people would say, *'cut off your nose to spite your face'*. The Speaker

needs to be someone who can sit in the Chair of the Legislative Assembly and make sound judgments and rulings as the debate goes on; to accept Motions and Questions and ensure that they are in conformity with the rules of the Legislative Assembly; with the Standing Orders; with the Constitution as it stands at that particular time.

This whole issue about the Speaker being potentially biased—if we follow the argument that is out there, *‘Oh the Speaker should not be a member of a political party’*. Are we going to be so naïve to believe that we could select anyone in this country to be Speaker who is not going to have some political opinion or political leaning? But, Madam Speaker, the issue is not to whom the Speaker belongs or supports politically. The issue is that the Speaker is going to make sound, rational judgments as he/she presides over the Legislative Assembly. That is the issue at hand. And anyone who understands Parliament; who takes the time to be open-minded can come to no conclusion except the fact that you, Madam Speaker, in my humble opinion, are an excellent Speaker.

Before you took the Chair, I have had Motions that were rejected and questions not allowed but I did not go out and get my supporters to come into the Chamber to try and intimidate the then Speaker. I accepted the position and went on. I do not have the document with me today but I will bring it on our next day of sitting because I would like to get permission to table it, Madam Speaker. I tried to bring a particular Motion that I thought was important and it was rejected. I think it is very critical at this juncture in this debate that the public be given the evidence. I am not just going to stand here and say I had a Motion that was rejected, I am going to show the Motion. It has the date stamped on it, the signature of the [then] Speaker and it has ‘rejected’ on it. So, this whole notion that important Motions do not get rejected is a fallacy. The Motion called for the end of contracted officers’ supplement. The Fourth Elected Member from West Bay and I tried to bring that last year February. But I think there are a lot of people in this country who would think that would have been an important Motion that needed to be debated within the halls of the Legislative Assembly.

So, what all of us have to recognise is not only the Speaker’s rulings, but it is how we react to the Speaker’s rulings. If some of us react in certain ways then there are going to be those who will question the integrity and the fairness of the Speaker blindly; without truly understanding what is at play.

Madam Speaker, just to give a brief example: When we submit Motions, it is clearly laid down in our Standing Orders as to what would make motions defective. I quote from Standing Order 24(4); **“A motion shall not contain personal opinions or controversial allegations unnecessary to the main issue upon which the House is being moved to declare its will”**. [quote repeated] The controversial Motion (the Motion for a referendum) had in it a section that

says, **“There is general support among the public for a referendum to be held to determine the views of the majority of the electorate in relation to the controversial issues arising from the Report”**. Madam Speaker, I repeat: **“There is general support among the public for a referendum to be held to determine the views of the majority of the electorate . . . ”** That is one of the Whereas clauses. So, that was their opinion. The First Elected Member from George Town in his debate on the amendment to this Motion clearly said that none of us in here, in his opinion, could say that we knew what the majority of the people felt. So, how can we say that there is general support? I did not agree that there was general support. I did not have any constituents saying to me that they wanted a referendum on anything in the Constitution. I have not had that representation to me. Yes, there are some people in the community—a minority support but ‘general support’ means there is widespread support for it. So, that was opinionated.

Madam Speaker, you ruled quite accurately and you quoted the relevant Standing Order, yet we still have this furor. It goes right back to what I said earlier. We react so emotively; we react from the shoulders down as Caymanians, not from the shoulders up. If there is anything that is going to move us forward as a people; that is going to allow us to take the next step, it is reacting from the shoulders up; it is finding a way that before you purport an opinion and talk what you do not know, you should find out. That is what we need more than anything else in this country at this particular point in time. It is not to be reactionary because we have a lot of tremendous problems facing us and reactionary responses are not going to bode well.

We have pending immigration reform in this country. Is it going to be popular? No. There is no country on earth that has had any government that solved the immigration problem. You do not solve immigration; you continue to amend your policies to be in the national interest. You cannot solve immigration in this world. It is a small global village. You could solve immigration when Cayman was the Island that time forgot. You cannot solve it now. So, that is another issue that will be coming up and the public will have a say on it but emotive responses will get us no where. We need to be enlightened.

Madam Speaker, I have covered the four points on which we disagree with the Constitutional Commissioners. I hope that I have given sound arguments as to our position (the UDP’s position) and why we have taken that particular position. The proposed Constitution by the Commissioners also has a number of other interesting features and we do have a lot of people in this country saying this current political directorate infringes upon namely, the freedom of speech. It is very interesting and I want to quote from the proposed Constitution with your permission, Madam Speaker.

The Speaker: Please proceed.

Mr. Rolston M. Anglin: Thank you, Madam Speaker.
Part 1(l). **"The Fundamental Rights and Freedoms of the Individual.**

"Whereas every person in the Islands is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political or other opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely: -

- "(a) life, liberty, security of person and protection of the law;**
- "(b) freedom of conscience, of expression and of assembly movement and association;**
- "(c) protection for his privacy and family life, the privacy of his home and other property and from deprivation of property except in the public interest and on payment of fair compensation,**

"the subsequent provisions of this Part shall have effect for the purpose of affording protection to the aforesaid rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest".

Madam Speaker, there is great confusion in Cayman. There is a feeling that a Bill of Rights gives you absolute rights. There is no country in the world—it is impossible in human existence to have absolute rights. You cannot have absolute rights for what if you perceive your right to be one thing but that right infringes (in the mind of a fair-minded person and in a fair-minded court) upon the rights of others. Or, those rights that you seek to exercise go against the public's interest. In other words, what is for the general good rules; that prevails over your perceived rights. This is what people must understand.

I say that to say we have persons who get on the talk show and say that this Government is infringing upon their freedom of speech. That argument makes no sense because they are saying that on a government radio station. Now, there are those who come here and want to challenge everything that we say. Anything that any MLA says has to be challenged. I do not care, people can challenge what I say all the time. That is their right but at the end of the day I am going to talk about those issues. They are not going to shy me away from them.

A comment was made that in the great United States there are so many government radio stations that allow you to get on and say anything you want about the government. I want the person who said

that, to show us the evidence that there are government-owned radio stations that have these types of call-in shows as we have in Cayman. Madam Speaker, I believe that Cayman is one of the only places on earth that you could have the ridiculous nature of some—I say some—of the callers and the contents of some the callers that call that radio show *Talk Today*.

It is very relevant to the freedom of expression; it is very relevant to Part 1, number 11 of the proposed Constitution. And it is very relevant that people clearly understand that it is not an absolute right. You cannot get on the show and say that someone is a murderer; a thief; a liar. You cannot just get on the radio show as someone did and call for the Civil Service to go on strike. This is a very important point. Let us take a step back: What would happen in Cayman if the Civil Service went on strike? Let us look at the two pillars of our economy:

Finance - the core of finance is perpetuated and allowed to exist because of the Registrar of Companies. If you do not have a Registrar or Companies to give effect to those legal transactions that need it (and most do) that industry would fall apart.

Tourism: what would happen if we do not have any Immigration Officers at the Airport; any Customs Officers at the Airport; any Customs Officers at the dock. Would we be able to have immigration? Would we be able to have tourists come here? Would we survive? I want everyone in this country to think clearly from the shoulders up before they listen and just hear things and shake their heads blindly because they want to react emotively.

Madam Speaker, I understand what is happening in Cayman. The economy is down. Any time a country's economy is down and unemployment is on the rise, in general there is a feeling of discontent. I understand that but what I am asking is for people to understand that things do not get fixed overnight; to have patience, but to think clearly. I draw attention to the persons who get on this radio show and make those sorts of claims, calling for a strike in the Civil Service which would kill this country; it would cripple this country. The economy would be dead. Those Caymanians who work at banks, trust companies, accounting firms, and law firms would have to stay home. How is business going to be conducted if the Registrar of Companies is not opened? If the Monetary Authority is not opened? What about those people who cannot run taxis; making trips to the North Side? Those who work in the hotels and condominiums? Do these people really understand?

At this particular point in time I question in my mind what real purpose the call-in shows that are not properly conducted have for this country when people can get on and call for a strike of the Civil Service; a call for anarchy; an end to this country. Do not think that international business is going to come back! The one thing we have is stability and when these people get on and talk about freedom of expression (but it

goes against the public interest) then they want to talk about us getting up here in this Legislative Assembly and expressing concern. I am frightened! Of course, I am very concerned.

I would draw Members' attention to the Penal Code to section 57(i) (b) where it talks about seditious intention, "**Persons who insight the inhabitants of the Islands to attempt to procure the alteration otherwise by lawful means of any matter of the Islands as established by law**". And tell me if a stoppage of the government does not fall into this category. Everyone is on the 'oh have pity on me' trip.

Few days ago I happened to listen to someone who called in and asked the host of Talk Today, 'Oh well have they threatened you?' The reply was, 'They have not threatened me yet'. And then the host goes on to say, 'Oh well, when you are the subject of debate in the Legislative Assembly of course it might make you stay up an hour or two at night'. Well I tell the host one thing: He has a young family and I have a young family too; he better put his head on. The nature in which he is handling this show causes me to stay up at night. When people can get on and call for a stoppage of the country; for the Civil Service to go on strike, that causes me to stay up at night.

Madam Speaker, this call-in show—there are a number of things that I believe will have to happen with the show. First of all the show should have more than one host. Look at CNN, Cross Fire and the different shows where you have persons on different ends of the political spectrum taking calls and there is point, counterpoint and there is balance being offered. In my humble opinion there is no balance being offered on this show. And that is something that I think would be greatly needed. Another thing that is greatly needed, in my humble opinion, is greater delay times on that show so that if someone comes on and say something that is not within the public's interest, they can expunge it from the record before it gets out. We must act responsibly.

When people compare us to the United States the one thing they have to remember: We live off the United States and other countries; we are dependent on them. So, when we lose our reputation and perceived political stability it is not something that is easy to get back. In fact, I say to myself when I hear—the host also allowed the same caller to talk about the "coup" that happened in November. Now, ten Members of the Legislative Assembly (a majority) went to the Governor and said, 'Governor, we have asked a particular Member to change his role, it is within the confines of the Constitution but the Member has refused to do it. Here it is Your Excellency and—oh by the way we do not come until six days to this Legislative Assembly and vote on that same Motion'. How could any one call that a coup? Or, is it that the host is so incompetent that he himself may not know what a coup is. That could be the case that he himself does not realise and therefore he could not correct the caller.

The Speaker: Is that your opinion?

Mr. Rolston M. Anglin: That is my opinion, Madam Speaker. That is a possibility but I do not think that is the case. My opinion is that that type of debate and blatant misinformation was allowed. I am a young person and I like to see young people become successful. Some months ago before the change in government just after the current host took over from the former host I remember hearing a number of people say to me, "*Rolston, you know the host is really biased toward the government; he is cutting people off; he is asking Bro. John 'have you had an illicit affair over the air.'*"

I mean the host was really taking a hard line. Bro. John was trying to criticise the government and he was putting him on the spot and asking 'Have you ever had an extra marital affair?' This host was really toeing the serious government line.

I remember—I do not know if the host does—saying to him in the back of this Legislative Assembly, 'Look, here are some things that I am hearing, you know, I really want to see you succeed on the show, these are some of the things that I am hearing: 'you are a little bit too biased toward the government'. So I said, 'You want to make sure that you taper these things so that you keep your credibility'. The reply was, and I will remember it until the day I die or God take away my memory, 'Well, it is a government radio station so I have to defend the government'. That was the response the current host of Talk Today told me. But things have changed.

When the Honourable Third Elected Member from George Town, the Minister for Community Services calls up the show, it suddenly becomes the people's radio station. Before the 8 November 2001 they were the government's radio station. You see the difference? It is easy to talk about *the people's this and the people's that*. Can the people go and throw the Governor out of his office? Yes, you might say that is the people's Glass House but it is entrusted. What I am saying is that we do not have certain things in this country entrusted to people who are being fair and who are looking out for the long-term interest of this country. So, instead of them calling for the Speakership to be from the outside maybe they should be calling for a fair host. Because that talk show has a wide listening audience. That talk show has the ability to ruin this country. The talk show serves a very useful purpose because I believe that if a person goes through all the channels, especially in this day and age with the absence of an Ombudsman in Cayman, that person will be aggrieved because there will be no where else to turn.

I believe the talk show is a good place to expose truthful things. But when it is allowed to be used as a political football; when it is allowed to have people call for the end; call for a closure of the Civil Service which would cripple this country to an extent that I do not believe we could ever recover—let us not be

over confident; international finance does not have to stay in the Cayman Islands. Tourists do not have to come here. I want those same persons who seem to know everything about everything; who get on that talk show everyday to tell us—they give us the alternatives to tourism and finance—how are we going to run this country? How are we going to survive without the two pillars of our economy. But you see, Madam Speaker, they get up and talk about freedom of speech and dictatorial government.

Can you imagine being a person who comes here on a business trip to consummate a big deal in Cayman and on your way to the luncheon in your car you hear these people talking about coups and talking about dictatorial governments—I do not know about you, Madam Speaker, nor the other Honourable Members but I can tell you one thing, I would think twice. If I am from one of the Scandinavian countries here on a business trip and I hear this thing in a strange land; a little tropical Island I would think twice.

So, I tell the host of Talk Today and I tell the listening public and all Honourable Members, nothing is off limits for debate in this Chamber. It has the potential to affect our very lives, therefore, as responsible legislators who actually show up to debate; we must talk about it. We must! It is our obligation. But the Opposition is such that they themselves are dictatorial in nature. They and their supporters do not want the Government talking about these things because they want to blind the common man with their rhetoric so they can seize power.

These are trying times but I tell them one thing: The Government is not going to lose focus; the Government is not going to succumb to their artificially inflated pressure. The Government is going to talk and do things about housing, unemployment, youth violence, bringing new business to Cayman, ensuring that we can maintain and enhance our standard of living. For it is not just for me, it is for our children and grandchildren. My! How easy it is to be ignorant and to have your prodigy curse your name. I refuse to be a part of that.

Madam Speaker, I would like to also point out a few facts quickly in regards to this big furor that was carefully and craftily orchestrated by the Opposition. The Opposition's opinion is that they can cause all the trouble they want and try to build membership for their PPM; not show up and then get their same people to call in the talk shows talking about the government should not talk about them. Well, they should be here debating; they should be here earning their money.

I look at this petition and the first thing that catches my eyes is at the very bottom where it says, **"Please return all originals of this petition to the George Town MLA office by the 17 June 2002. The address of the George Town MLA office is Suite A6, Cayman Business Park, George Town, Telephone 945-8292. Such office is staffed between the hours of 3. 00 to 7. 00 Mondays through Friday"**. But of course, the Opposition's leadership style

is that they cannot make any decision; they want to be everyone's friend and they want to get consensus and everything. So they orchestrate the petition but then they say, *'We support the People for Referendum'*. No, Madam Speaker, they *are* the People for Referendum; one and the same. And what is consensus anyway? According to the New Webster's dictionary consensus is, **"A collective opinion; general accord agreement; usage denotes a commonly held opinion"**. For the life of me how in the world can you get consensus on an 89-page document? It has such emotive issues such as freedom of expression; freedom of conscience; freedom of religion. How can you get consensus? We know the UK Government through her position as laid down in the White Paper has said there must be a Bill of Rights. So, it is in our best interest to go along at this point in time with the dialogue and try to make sure that we get something that is in our best interest. It does not make sense to *dig a hole in the ground and stick our heads in it* until it goes away. For it will not go away. The UK Government changed capital punishment; it changed corporal punishment by an Order in Council; it changed homosexual acts in private by an Order in Council. So, the world is not going to wait on us to form this general consensus.

The Commissioners tried their very best for nine months in this country, and if nothing else, this should serve as a good lesson for us Caymanians to stop being so laid back; so emotive and be more practical and more structured in our lives; pay attention and get involved when the opportunity is there. But the opportunity will not be lost because the Leader of the Opposition clearly outlined what the process was. He said he did not know. He said that the furor was caused because the public did not know what the process was, yet he got up in this Legislative Assembly and outlined what the process was. I have it right here in the *Hansard*. He said what the former Governor said: *This debate and other relevant documents will go off; they will be drafted; if there are minor changes we settle them by telephone; if there are major controversy the United Kingdom will send a contingent here*. So, when they got up on the steps of the Court House and totally misled the public talking about *'Stop the government'*, and that they do not know what the rush is; talking about, *'This is your last chance'*; talking about, *'We need a petition to stop the Government'*, Madam Speaker, they well knew they were not doing anything but playing politics. Let us look at the items that they want a referendum for—we have now established that this was promulgated by the Opposition. This is the Opposition's petition. People for Referendum is simply the cloak they are hiding behind.

- Should there be term limits held in the office of the Chief Minister? Yes.
- How long? 10 years, 40 years, 2 ½ years.
- Can you take that to a referendum? No. Not a simple Yes/No answer.

- Should the Cayman Islands Constitution contain provisions to permit the electorate to initiate a referendum? Sure.
- For what percentage? 10%; 50%; 100%?
- On any issue? No. Not a simple Yes/No.
- Should the Speaker of the Assembly be chosen from outside the elected membership of the Legislative Assembly? Again, you might be able to answer Yes/No to that initial question.
- Should he/she be a party member?
- Should they be of any opinion about politics in Cayman? Maybe they might want us to bring in a foreigner to do that too.

They might want us to bring someone in who is going to be totally dispassionate; someone who will be totally unbiased. But in case they did not realise, we understand that some of them are perfect but we admit that we are not. In case the perfect Opposition did not realize, God created most of us imperfect. No Speaker is going to be perfect. What we ask for is a Speaker to rule fairly. Should there be 'one man, one vote'? Is that something that should be decided nationally? We know the numbers in Cayman.

If George Town and West Bay were combined to have a common position they could cause that position to be enforced upon the people of Bodden Town and your constituency, Madam Speaker (Little Cayman and Cayman Brac). Is that fair? Is that democratic? Is that not an issue on which you would call for a referendum to decide that it should be done on a district level? So that people within their own district can decide what is best for them? So, you see, it was hastily put together. Obviously, a lot of thought was not put into it and it was just to build membership for the PPM. That is all it is. It seems to be just another political ploy.

Madam Speaker, I would just like to end off by saying that we are at a critical juncture in Cayman. The Government provided the perfect platform for this debate. We changed it from a 'voting debate' to a 'take note' debate. Therefore, the Opposition has no real reason for not being here other than to build publicity; another publicity stunt to take away from the proceedings in here. That is my humble opinion of what is going on.

If they were here to put their position forward so that I could listen and think about what they are saying; they could listen and think about what I am saying—and maybe on the few issues that we do not agree on, which I think is about five out of that 85-page [89-page] document, that would have provided the basis for the way forward in terms of being able to build some sort of common understanding—but no, they are not here.

There are people saying that, '*You all should just get together and discuss this thing*'. And I say to people all the time, '*You pay me to go to the Legislative Assembly when it is sitting, that is where it should be settled, out in the open public where everybody has the right and can hear it on the radio and see on*

TV that there is no game'. For I am not meeting with the current Opposition in any private room. Not in this lifetime. This is the place. They change their words and their minds too often. We have rules of debate here; we have openness and transparency and that is why it should be done here.

I would like to point out also that we believe that we have just as much pulse on what the majority of the people in this country feel versus a loud and boisterous minority whipping up the people. I have people come to me in my constituency who wanted their names taken off the petition and I have directed them to write the Supervisor of Elections. According to those people they signed it under deception. They told me that they said, '*Sign this if you do not want to go independent*'. And all this sort of nonsense. So, even though we now know the result of their petition is a minority of the country, even that minority is not as large as we think. Like I have said I have had a number of people in my constituency tell me how sorry they were that they signed it. And again, that is why I ask for people to think clearly; to listen; to wait to hear both sides of the story.

As I said before the lunch break, I do not want anyone to necessarily say they are going to believe me . . . just listen and judge for yourself. "Take time to know her". That is what the old song says, "It is not an overnight thing". And I think most of this country is quickly realising what this Opposition is all about. I am not saying to people they should join the UDP, I am saying to people take time to know us all. Take your time; listen and educate yourself. Think clearly. That is what we need at this particular juncture. The Government is committed to moving forward on housing, education reform, immigration reform, youth violence, the situation at Northward Prison; the situation at the dump. That is going to be the focus. All these are important national issues, not these six that were hand picked by the Opposition via what seems to be the Cayman Bar Association.

We are going to be focused, we are not going to waiver in our duty to the people of this country to serve them effectively for the Constitution is gravely important, but at the end of the day it is not going to feed hungry bellies; it is not going to feed hungry babies; it is not going to educate our children; it is not going to cause young people to stop being delinquent; it is not going to solve unemployment. That is what the Government is going to be focused on. That is where we are heading and when they ask why the rush—those who do not understand the urgency of life, really, I feel for them. There is urgency in life. You know the saying, "You either walk fast, run fast or get ran over". We must ensure in this country that we continue to have dialogue with the people but that we move swiftly on these issues. No one can say that we do not consult with the people.

The First and Second Elected Members from George Town did not have one single public meeting in the year that they were in power. Not one single

public meeting! The only thing that happened was when we had public meetings on issues such as Cayman Airways, there was a 'huff and a puff' because apparently we were upstaging the [then] Leader of Government Business at the time but I say to the public: If the Leader of Government Business could not do the job effectively then we had to do it. Therefore, he had to be removed. It is quite that simple. We have met four times per year so far with our constituents as our manifesto calls for. In fact, we met more often last year because of a couple of emergency meetings. So, we go to the public; we bring the public issues. I know, as an old politician in Cayman told me, *sometimes we tend to be seven-day wonders and we kind of forget in Cayman*. I think sometimes we need to stop, think and remember.

Madam Speaker, I would just like to say that I think the Commissioners did a good job. They made every attempt to get the opinions of every single citizen in this country. We are now at a juncture where the Government has come forward after consultation with the public and put forward its opinions. That is the right, but more than the right, it is the obligation of a good government. For you must be able to have an opinion and formulate it and move your country forward.

Madam Speaker, I thank you and all Honourable Members.

The Speaker: Thank you, Honourable Member. Does any other Member wish to speak? The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Thank you, Madam Speaker.

This debate that deals with the Constitutional Commissioners Review that was presented to the then Governor, Mr. Peter Smith, on or about the 7 March 2002 seems to have gone through a nine-month process as it was handled by non-political members of our community without many hitches; with very little controversial debate or disagreement; with very little attacks made by individuals against each other accusing each other of being undemocratic; dictatorial; mean; conceited; arrogant; ignorant and all the other terms that we have heard. Perhaps that is the biggest surprise that something that would later become so controversial could have gone through its infant stages with little or no great controversy or debate.

The Constitutional Commissioners have said that with regards to this process, and I quote, **"We conducted a series of district public meetings in all of the electoral districts. Notice of all such meetings were given in the local press as well as on Radio Cayman and the local commercial television station channel 27. A number of our district public meetings were broadcast live on Radio Cayman and the addresses of all of our meetings, including those sponsored by local organisations**

and civic groups and the questions asked and the comments made at such meetings were covered extensively not only in the local press but also on Radio and TV.

"In addition to our district public meetings we address the Cayman Islands Chamber of Commerce, the Civil Service Association and the local Lions/Leo Clubs. The Chamber of Commerce which represents more than seven hundred corporate and associate members employing nearly fifteen thousand persons, many of whom are Caymanians, also under took an awareness initiative within its membership and employees and conducted a survey of its own on the major issues the subject of discussion at the public meetings.

"Among those responding to the survey were some one hundred and six registered voters. The Civil Service Association also made a written submission. This body is representative of a fairly large percentage of fourteen hundred and thirty seven civil servants who are currently registered voters. We also met with representatives from the Cayman Bar Association whose membership consists of sixty five persons holding Caymanian status and a local group who call themselves 'the Concerned Citizens'. Both of these bodies likewise made written submissions and in the case of the Cayman Bar Association same was accompanied by a suggested draft Constitution.

"A written submission was also made by Cayman Islands Seafarers' Association made up of three hundred and forty-eight retired seamen. Meetings were held with members of the Legislative Assembly and the elected members of the Executive Council on a collective basis in order to solicit their views and we likewise met with the three officials in the Executive Council on an individual basis. A meeting was held with the Chief Justice and other Judges of the Grand Court in relation to the Judiciary and with the Supervisor of Elections and his deputy and a member of the Lands and Survey staff on the matter of the boundaries of electoral constituencies and the number of electors in each. We interviewed many members of the public who are registered electors in the offices that have been provided for our use. Many others have spoken to us on a one to one basis".

Madam Speaker, I read that because the question would be: Why did the controversy not begin at the point in which the three non-political Commissioners were conducting such a wide, consultative process. Why did the tempers not become inflamed at this particular point? Why would the Commissioners on the 7 March 2002, write His Excellency the Governor, Mr. Peter Smith and say, **"In May 2001, you issued a press release informing the public of the Cayman Islands of our appointment as Commissioners to conduct a modernisation review of the Constitution of the Cayman Islands. This was fol-**

lowed by a joint letter of appointment addressed to us on the 15th June 2001, setting out, inter alia; our terms of reference (Appendix 1).

“Having completed our review we now have the honour to submit our report (Appendix 2) together with a draft Constitution (Appendix 3) which in our view reflects the desires of the people of the Cayman Islands”.

Madam Speaker, were these fraudulent statements? Were these statements that were not supported by facts offered by the Constitutional Commissioners? I just read their description of the wide consultative process which they were involved with. So now if they are suggesting that the Draft Constitution (their Report) is reflective of the views of the Cayman Islands people would we say that is not the correct position? How do we know that is not the correct position? How would anyone come up with the idea that the Constitutional Commissioners' positions are not the correct positions?

On the 15 June 2001, the then Governor, Mr. Peter Smith, wrote to Mr. Benson O. Ebanks, OBE, JP and Mr. Arthur B. Hunter, OBE, JP, Mr. Leonard Ebanks, JP and said to them in his letter in paragraph 2 which we all have seen: **“Your terms of reference are to examine the present Constitution of the Cayman Islands . . . ”** (not the Constitution to be) **“ . . . and, following the widest and most comprehensive . . . ”** (those of us who have comprehensive insurance know what comprehensive means; it takes care of everything) **“ . . . consultative process, to make recommendations designed to modernise the Constitution and to ensure its compatibility with the present aspirations and expectations of the people of these Islands”.**

Madam Speaker, note that there was no message that was written to the Members of the Legislative Assembly requiring that they go through a process of wide and comprehensive consultation with the people of the Cayman Islands, and then make recommendations designed to modernise the Cayman Islands Constitution, and to ensure its compatibility with the present aspirations and expectations of the people of these Islands. Why? If politicians were given the task of consulting widely and comprehensively with the people of the Cayman Islands, they would colour the views and opinions of those persons. So, what we would get at the end of the day would not necessarily be compatible with the present aspirations and expectations of the people of the Cayman Islands.

My case is that the British Government used the Constitutional Commissioners at a time when the views of the public were not inflamed by partisan subjectivity. At that particular point in the process you could no longer take an objective sample of the views and opinions of the people since the views and opinions of the people have now become representative of their respective political positions.

But there is no reason why at the beginning of this debate in the Legislative Assembly, when the politicians were to become involved in debating—not whether or not the views of the Commissioners were reflective of the aspirations and expectations of the people but how the politicians themselves felt about what the recommendations were.

So, it should never be a question in my mind at this stage in my maturity, with regards to this issue, whether or not those views are the views of the people. In fact, the Constitutional Commissioners who were commissioned—and we all know what a commission means. I did not have a commission to be able to go and do something. Therefore, I could not do it and come back to you as the governing crown and say, *‘I have done such and such in your name’*, when I was never commissioned to do such. How can any politician say that he represents the views of the people to the Crown when the Crown is interested in the views of the people as they are ascertained from the persons that they have commissioned?

So it is not my point now to argue with anyone about the views of the Commissioners. I can have my opinion but my opinion should reflect what I think, not whether or not those opinions are the opinions of the people. This was the first mistake I think we made as politicians. I am not going to divide us into sides in making this mistake.

When we begin to say that these are not the views of the people or that these are the views of the people, rather than saying, *‘I do not believe that this recommendation will work because of a, b, c and d reasons’*; when we think that we can only change the outcome of these recommendations by stagnating, or halting, or by trying to colour and confuse the process with the politicisation of the general public with regards to these issues; Madam Speaker, I therefore have made the case that we should see the Commissioners' Report to the point in which they made it as the best method to have achieved the views of the general public.

What we now have as the views of the general public is the stirring up of the general public and we ourselves as politicians on both sides of the House are causing the people to react more to us; and their relationship to us; and their trust in us; and their lack of trust in us; and their hatred for some of us; and their despising many of us.

I do not believe that I would be telling the United Kingdom at this particular time that they should take the views that are the result of war among people based upon petty differences. I believe they should take our studied, learned critique of the recommendations because we see some of those recommendations as not being practical at this time, but not that the recommendations do not form part of the legitimate expectations of the people of these Islands.

Madam Speaker, in debating the Draft Constitution and the recommendations included, we tend to concentrate on what we see as the basic six points of

disagreement between the Government of the United Democratic Party (UDP) and whoever else is out there 'sooked on' by the People's Progressive Movement (PPM).

The debate about the right and wrong, or the strengths or weaknesses of those six points is a different debate, than whether or not it is representative of the Commissioners' particular position. The term limits find themselves on the paper asking for a referendum on these issues but it is interesting the way the views of the public were before they were coloured by a few activists. The public, according to the Constitutional Commissioners, did not necessarily ask for a term limit with regards to Executive Council Members. I am reading from page 8 of the recommendation where the Commissioners said, "**The issue of 'term limits' for Members of Executive Council and in particular the Chief Minister was raised on a number of occasions. We did not however form the impression that this was a matter that received widespread support**". Now it is an issue of national importance according to those persons who said so. "**Our concern is that with the number of qualified candidates to the Legislative Assembly being already limited by virtue of the definition of 'Caymanian' and the requirement that only a Caymanian is qualified for election as a Member of the Legislative Assembly the imposition of term limits (on Ministers) could seriously deprive the Islands of capable and experienced Ministers. By the same token if term limits are imposed on members of the Legislative Assembly the electors in many constituencies could be deprived of the choice of able and experienced representatives. We therefore do not support term limits of any sort at this time**".

So, if the United Democratic Party is of the position that they can agree with that recommendation—not again, that that recommendation is not the views of the majority of people, that is not what we are saying. We are saying that we disagree or we agree. With this we agree.

Now, for the same reasons stated by the Commissioners, I agree in most cases. But I would like to add that a lot of us, because of the closeness to America, geographically, culturally, socially, financially, see the American system and think that it is the closest system to our system, when the American system is one that was caused by revolution—not a bloodless revolution but a bloody revolution. There could be no system that is further removed from the Westminster White Hall System than the system that overthrew, in the first place, that system by violent revolution.

They had good justifications for their revolution, I admit, but nevertheless, we have to understand that their Constitution is a particular kind of Constitution because it has no history; it has no precedence; it has nothing that came before. The only thing that came before their Constitution was a bloody revolu-

tion! At that time when they were having their bloody revolutions France and other places had been cutting off the heads of Kings, chopping away tradition and starting all over again. Therefore, you have to understand why the United States of America had a written Constitution, unlike the United Kingdom that has operated for thousands of years, or at least, hundreds of years without a written Constitution.

So, the Constitution in America must take certain things into account: It must take into account what people understand as the behaviour of their Government. They are saying that they are defeating a King that is a tyrant, a despot, an absolute monarchist that believes in the absolute rights of the King to govern his citizens without the citizens having any rights at all, other than the obligations that they have to the King and to create a new system. A revolutionary new system needed a Constitution and that Constitution basically becomes the foundation and the light of the new Republic.

We have to see why the American Constitution, unlike any other Constitution in that sense, played such an important role. It is the creator of all the laws and precedents and customs of the American Republic.

Our Constitution is not in that sense a sovereign Constitution that will be achieved through bloody revolution. Our Constitution is an instrument to govern us internally, which is passed down to us by a superior Parliament; a sovereign Parliament that has jurisdiction over what happens here.

The sovereign people of America created the sovereign nation of America; created a sovereign Constitution of America; created a sovereign Government of America. We are not sovereign people; we do not create that law which is the law of all laws in the country. We create laws based upon that law, but that law is created for us by a Parliament. It is not done by revolution and it is not done as a result of men, after they have gathered arms getting together in a convention, saying these will be the rights; these will be the obligations of the new citizens of our republic that can apply to the Constitution for protection.

The Constitution is not in our sense, the final document. The final say is the Council in Great Britain that not too long ago conferred British Citizenship on us. I did not see us take a referendum to say whether or not we are going to be British Citizens or not, but I heard a lot of people out there disagreeing with it at one particular point. Now, thousands of people are applying for their rights and I believe it is their rights and they should have those rights but those rights come from the superior Parliament.

We are not to forget, therefore, that the Constitutional process we are now going through is not the same as the Constitutional process that the Americans went through when they got rid of the King; the British Monarchy and the British Parliament through a bloody revolution.

Nevertheless, it is a very important document but the document basically attempts to give certain powers to the different branches of Government in order to allow participatory or representative democracy to function.

An executive is an important part of this Constitution. How do you constitute an executive? What will be the powers of this executive? How does an executive come to life? An executive comes to life by the Constitution saying that there will now be the right of the citizens to elect members to the Legislative Assembly.

People have to remember that before the 1972 Constitution and even before the 1950's, I believe, there were only certain people that could vote in this country. You had to have property to be able to vote, you had to be a man to be able to vote (women could not vote) So, democracy as we know it, did not always give the citizens full rights.

This modern system says, I, as a person am entitled to vote. They spell out to me what gives me the entitlement to vote. It says I must be a Caymanian: a British Dependent Territory citizen. There will be periodical elections—in our territory elections are held every four years. I, as a citizen with the right to vote, can elect a Legislative Assembly. That Legislative Assembly is what we call the representative government.

There is the other part of the Government called the Civil Service that is an ongoing process of the Government. And this Civil Service is headed by the Governor who is sent by the United Kingdom to the Cayman Islands to head the Civil Service and to make sure that their Overseas Territory remains a stable law abiding country where the rule of law is promoted, supported and followed.

So the role of the Civil Service Bureaucracy as the non-representative part of the government is important because now you will elect Members to form an Executive from the Legislative Assembly that will become a part of the partnership between the non-representative part of government and your representative part of the government.

But you cannot send fifteen Members up to the Glass House because you will have chaos again, just like you would not send your population of 40,000 people to the Legislative Assembly. You have periodical elections to elect the numbers that will elect the Executive that will form part of the representative government. Your representative government; those persons that form what we call the Executive Council will go to the Glass House and make decisions over a period of four years that we call 'executive decisions'. But they need to come back to the Legislative Assembly (meaning the people) when it comes to financing whatever it is that they are deciding to do. They are answerable to the legislative branch of Government.

Madam Speaker, in America you do not have the same situation. Representative Government in America means that not only do you have a Federal

government, State governments, City governments, other Borough councils, but you also have on the federal level that brings all of the States together, connecting them. You have the legislative branch of government—the Senators and the Congressmen that make legislation. But the executive branch of government is the President and his Cabinet. The legislative branch of government in America does not choose the executive branch of government. That is very important for people to recognise.

We choose from this Parliament the Executive; the Executive comes from this Parliament. This Parliament can hold the Executive branch of government accountable and that is why Parliament is here to make sure that we hold the Executive branch of government accountable. So, when they go over to the Glass House they do not forget their obligations to the people and that obligation to the people is reminded not by mob rule but by the parliamentary procedures carried out through the MLA's or Back Benchers in this Parliament.

When the President chooses a Cabinet we can see why he becomes so powerful. Because all of us who go to Washington see how big Washington is; how intruding it is; how gigantic; it looks like Paris or London. Washington was built to give that same impression of the omnipotence of government; the powerfulness of government. And the President of America is equated to a King. Because at that particular time in history it was hard for them to understand how you could go from a King to a President; and the President to be effective if the President did not have the same powers and privileges as a King.

So, in a way, America made a Constitution to be able to curtail the despotism of the King but the King at the same time had certain powers that once he put his Cabinet together he could act in ways to perpetuate himself even if Congress were to disagree with him at certain times. So, we see why America would want its President to have term limits.

Moment of Interruption—4.30

The Speaker: Honourable Minister we have now reached the hour of interruption. May I call upon a Government Minister to move the Standing Order for the adjournment? Is it the intention of the House to go beyond 4. 30 pm this afternoon?

Suspension of Standing Order 10(2)

Dr. the Hon. Frank S. McField: Yes, Madam Speaker, so could we take the relevant Standing Order to go beyond the hour of adjournment?

The Speaker: The question is that Standing Order 10(2) be suspended to allow the House to go beyond the hour of 4. 30 pm. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: We shall take the afternoon break at this time.

Proceedings suspended at 4.36 pm

Proceedings resumed at 5.17 pm

The Speaker: Please be seated. Proceedings are resumed. Continuing the debate the Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Thank you, Madam Speaker.

Before we took the break I was basically showing the fact that no one could be said to speak for the majority of the people, except for the three Commissioners that were empowered to take an objective sample of the views and desires of the Cayman Islands people. And that what took place afterwards when the politicians became involved, is that there was an attempt to influence the views of the people, and to therefore, call the views that were being expressed by petition and by radio talk shows, as the views of the people.

But I think that the British Government will find that this is a bit erroneous to believe that the Commissioners did not completely carry out the mandate that they were given, and that somehow this particular process was being better done by the People for Referendum (PFR) or by the People's Progressive Movement (PPM).

I also showed that some persons tried to equate our constitutional process with that of the United States or tried to give our Constitution the same importance as the United States' Constitution that is a sovereign Constitution. Our Constitution is derived from a sovereign Parliament. It is not sovereign in itself but it does provide the instrument for more local autonomy and the Constitution embodies the powers of the different branches of government; the Judiciary; the Executive and the Legislative branch of government.

Our Executive branch of government is chosen by the Legislative Assembly and the Executive branch is also part of the legislative branch. But also a part and separate, in that, the Ministers as they are called, govern in Council with the Governor and are nominated Members that are not a part of the representative Government system or the representative democratic system. For we have Ministers who represent the people in the Legislative Assembly and on the Executive Council that are not chosen by the people and therefore do not necessarily represent the people's views. So, our Constitution is not at this par-

ticular point a totally people's Constitution. Our Constitution is still influenced by the fact that we are a dependent territory and that we are tied constitutionally to the United Kingdom as the superior Parliament.

Certainly, the role of the people is limited in the Cayman Islands in terms of exercising their democratic rights—it is not the same as a United States citizen exercising his [democratic] rights—although the constitutional modernisation process was intended to give more autonomy to the people of these Islands in terms of making decisions.

We have already indicated that the United States President has term limits because he, at the end of the day, could become a despot, in that, when he chooses his Cabinet—rather than in our case where the Cabinet is elected—those people could tend to perpetuate themselves over a long period of time. So, each person who is going to serve on the Executive Council has to run for election in order to be elected. In other words, each member of the Cabinet will have to face evaluation at periodical elections. Whereas, this is not the case for Colin Powell and Condoleeza Rice, and other persons who are working along in the (George Bush) presidential Cabinet.

So, there is a need for us to compare our system more with Commonwealth democracies and with the mother country's Parliament rather than with the American system.

One of the situations recognised was a need to give more accountability to the political arm of government in the Executive Council. The Constitutional Commissioners looked at this particular issue of how to give more power to the people through representative government. This would mean that there would be fewer Ministers that are nominated and more Ministers that are elected. Therefore, the people are being represented even more than they were before. And we can see why we would not have pure political democracy as is practised in other countries that have a much more advanced Constitution.

When we accept the fact that our Constitution is not an advanced Constitution and need modernisation, we are also accepting the fact that democracy, as a political instrument, would not necessarily have been in existence to that more extreme degree that we find in other countries. Comparison is good but we must be careful when we compare; we must make sure that we are aware of the differences.

One of the issues in terms of dealing with the Executive branch of the government making more Ministers, for instance, if the Financial Secretary's position were to become an elected member's position; if the Chief Secretary's position were to become an elected Member's position; if the Attorney General's position were to become an elected member's position, the people would end up having all the persons that are making political decisions for them and who are answerable to them. And that we see as an advancement because it gives more democracy.

But the issue is if you are going to advance your Constitution to the point where you have Ministers that are elected by you, how are they going to all be equal without there being a Chief? And of course, the idea of a Chief Minister surfaces and becomes a necessity at this particular point.

Now, the Constitutional Commissioners did not find that this was necessarily the most difficult to discuss with people and to get their feed back on—when they wrote on the ‘Executive Council’ and it says: - **“In conducting our entire review process the issue that has provoked the most debate has been the composition of the Executive Council and the desire to advance to a full Ministerial System of government”**. A full ministerial system of Government would mean that Ministers would have certain types of responsibilities. **“While the concept of having a Chief Minister as the political head of government and who in turn chooses the other Ministers in the Executive Council enjoys overwhelming support the manner in which the Chief Minister is to be chosen has perhaps been the most controversial issue we have encountered”**.

There again, Madam Speaker, what you have is the Commissioners saying that the idea of a Chief Minister has overwhelming support but how the Chief Minister should be chosen has been of concern to some persons. Now, if we were to say that the Chief Minister is to be chosen by a ballot, which the Commissioner also examined—it says: -

“There is widespread support for the Chief Minister to be chosen by the entire electorate in a separate ballot from the general election from among those persons who have been elected to the Legislative Assembly”. Again you have a situation where people are comparing themselves to America and they are thinking about what they see in America; they choose their President who is the political head, whereas we are not (now) being able to choose our Chief Minister because we need to understand a little bit more about the fact that our Constitution is based upon the Westminster White Hall System of Government, and not the Republican American Federalists type of Constitution.

If in our system we were to cast ballots to elect one of the fifteen people that were elected as Chief Minister, how would that person be able to gain and retain the confidence of the majority of the people? How would that person be able to bring legislation to the Legislative Assembly, since the Chief Minister would be responsible for making sure that proper legislation is brought to this House and debated and voted upon? So, how would that person be able to get finances for the appropriation, which is necessary to carry out the decisions that have been made by the government? That person would not be able to do any such thing since he would not be supported by the majority of persons in the House and would just be like anyone else.

It goes to show that consensus and support are a part of the democratic system that when people are elected to Parliament, whether or not they come here with political leanings, there has to be another kind of election in here where people become more associated with each other’s political platform or views.

Fortunately or unfortunately we cannot have all the people’s views being put into the decision-making process at one time. We would have to come to a consensus and move on from there. This Parliament is a very important part of the decision-making process—how we get to the point of having consensus to decide where it is that we go. If we had a Chief Minister that was elected by the masses of people then this would not work, of course.

The Commissioners have said that this will not work. What we have had is the idea that if we cannot control who the Chief Minister is going to be, let us control the time that the person would be a Chief Minister. We did not get a suggestion from the Commissioners that the Chief Minister or any Minister should have term limits because they rejected that as I have, and explained why in America the President has term limits—in America they elect the President. So, they want to elect the Chief Minister but they cannot because the system that we have does not allow it. Now they are saying, *‘Let us give the Chief Minister a term limit’*. We see how much they are relying on the Republican American Federalist System that was created by a bloody revolution.

In the petition of the People for Referendum what we have here is the idea: *Let us put a few of the issues that the Commissioners agreed with; that the United Democratic Party seemed not to agree with*. Remember now, Madam Speaker, it is not that the people did not say that this is so, but that the United Democratic Party might be questioning some issues, for instance, the ‘one man, one vote’ issue as to whether or not it is practical at this time; and whether or not it would not have more weaknesses or strengths at this time; and not that the Commissioners did not derive this opinion from a comprehensive consultation process with the people. They put some of these with those that they have come up with. When they put them on petition and get people to sign it, the question is whether or not the consensus was arrived at before the petition or during the process of petitioning.

That is a very important decision to make and know because if you bring this to me and say, *‘You sign this petition because in here there might be one or two things that you agree with’*. You might not agree with all of them but there is one thing that you agree with so you sign the petition. You believe that the people have the right to initiate a referendum and so you might even sign the petition.

But, Madam Speaker, term limits on a Chief Minister—why? Because if the Chief Minister has a term limit which is called every four years and if the

people do not want to give the Chief Minister or any other Minister or any other Member of this Honourable House additional time, the people can vote them out and vote for other persons. So how could the Chief Minister or any other Member of this Legislative Assembly perpetuate themselves longer than the will of the people would allow for? Why would that limitation become an issue of national importance? Because I do believe that there are some people who look at situations in other Islands and say, *'Oh this person has been in power for a very long time'* and they look at America and they say *'Well, that is how they deal with it there; to prevent autocratic despots from remaining in power then let us give them a term limit'*.

There are people who are also making the assumption that the people are so uneducated; so weak and so frivolous that politicians can continue to win elections every four years without losing, and that is not true. Because part of the position of any Opposition should be to educate and inform the people about what is going on in their country, so that if people do not like it at the end of the term they can vote people out. You do not necessarily have to put a term limit in order to secure democracy and have transparency.

Madam Speaker, it is interesting that we do not choose the Governor. He comes here and we live with him for three years or however long until someone else comes. I found out, from the time I first came back here from school in the 1970s, this whole idea that we cannot trust Caymanians, our own people: We can only trust someone from overseas, the English or the American. This suspicion about Caymanians that as soon as they get some place they turn against their own people—we have to understand a little bit more about that. And I notice that the Second Elected Member from the district of Cayman Brac talked about the whole subconscious subtleties of the social psychological nuances of people when they are oppressed for a long time; how they come to believe that their benefits are the benefits of their masters rather than the benefits of themselves; how when they view themselves in the mirror they begin to see themselves as being beautiful through the eyes of their masters and not through their own eyes; how they begin to judge their kids; how they begin to say *'You are stupid'* to their kids; and how they begin to label them. They treat them in such a way that they are not even conscious of the fact that that is not their consciousness that is at work but that someone else has planted that in their face, *'Look at that little old ugly boy there: you not going no place and you so fool you cannot learn nothing in your head'*. Those words are not theirs; those words are someone else's about these people and their kids, which are passed down from one generation to the other. And we do not stop long enough to correct it and that is the same thing: *'Look at that old Frank McField he thinks he is this and he thinks he is that but wait until we get him back right where he was, where we kept him for all them*

years, we should have kept him there. He does not know where he comes from; he needs to know where he comes from'. That is oppression at its best; when the oppressor does not have to lift a finger to keep you where you were. And every time you lift your hand out of that barrel; out of that hole they say to them, *'Look he is crawling out, if he gets up he is going to think he is better than you. Kick him back down.'* Well, certain people should be happy because it makes more space for them to breathe because sometimes the bottom is where most of us are.

What I am saying is that from the time I heard, *'You cannot trust a Caymanian, you cannot give a Caymanian any position of leadership'* it goes back to that whole colonial mentality that we can drive other people up and down; we can feed other people; we can give servants to other people; we can have parades for other people, we can do all those things for other people but let one Caymanian say that he should be treated in a particular way.

We see the dynamics even in our sports. Look at the guy who is saying *'I am a Caymanian athlete and you do not want to pay no attention to me'*. And someone else says, *'Well, I am a Caymanian lawyer and you do not want to treat me with respect'* and the other one says, *'I am a Caymanian bookkeeper and look at how they treat me'*. *'I am a good secretary and look at what they do to me'*.

Well, the dynamics is all over. Everyone is complaining about the same thing and yet we are all doing the same things to each other. Can we not understand the collective dynamics that is at play here? *Do not go forward because if we go forward this man is going to be the Chief Minister and look at where he comes from and you know what he is going to do to you because he is not good enough to be trusted.* We are judging ourselves when we judge each other. Whatever I have said about you is what I have said about myself. The day I can be proud to see another Caymanian excel in whatever field that he or she is excited about and devoted to, is the day I am happy about myself.

But when I have to go around talking bad about people it is because I feel bad about myself. It is how they put it in our subconscious minds. When we look in the mirror we see ourselves worse than we really are and it takes other people to look at us and really convince us that we are not that. But that takes many years of conditioning the minds of people to look down on themselves and when the day comes when they are standing up, they are still looking down.

They believe that because they might look down on the Leader of Government Business that they are not looking down on themselves; they might believe that because they ridicule and show disrespect to me about *'doctor this and doctor that'* and *'what kind of doctor is he'* they are not showing it to themselves and their children's possibilities in the future. If the situation is to continue for Caymanians not being able to control the one institution that we have

by law and by right to control (which is the political institution in this country, because there is so much jealousy and envy among us) then which one are we going to control? Is it the economic institutions out there?

I am not saying this as any criticism to anyone else besides myself, because I need to understand this just like every one else. We were all born in this; we were all raised unconsciously with some of these ways and it is only when we become conscious and admit—like they say in church, you have to admit—before you can get out of that situation.

So, the term limit concept for the Chief Minister is the fear of ourselves that causes us to believe that that is an issue of national importance—the fear of self.

We live in a country that we get sent every three years a person that has reserved powers that could turn over any decision that any Chief Minister makes; or any Minister makes; or any Legislative Assembly makes, and we can tolerate and have been comfortable with that relationship—I do not understand.

With regards to the position of the Governor on page 6 in the recommendations it says: **“The major changes recommended to Part I of the current Constitution deal with the Governor’s role in relation to the public service. We will refer to this further when dealing with our recommendations for the inclusion of the Public Service Commission in the Constitution and for the expansion of the functions of that body. Save for the foregoing there has been no clamour for nor have we made any recommendations to change the Governor’s reserved powers”**. People need to understand the Governor’s reserved powers remain the same; the balance of power remains the same. All that really happens at the end of the day is that the Executive [Council] that he consults is being structured where the Ministers on the Council who give him recommendations would all be elected and they would have a Chief Minister.

There are some people who have tried their best to say that this Constitution is going to affect future generations. Sure it will, but the fundamental issue to remember is that the reserved power of the Governor; the position of the Governor; the position of the British Government remains unchanged.

What is being rearranged is how the Executive branch of government will function, in that, it will be more comprised of people elected from among the people, rather than people appointed by the Crown: More democracy, more possibility for transparency, more accountability. And then we get tied down on whether or not there should be term limits on the Chief Minister because that is such a novel (new) chapter for us to have a Caymanian that might be in charge.

I wonder if we were to get a little car to drive that Caymanian (who would become Chief Minister) around a little bit: *‘Look at him going out there in that*

car now with them driving him . . . thinking he . . . look at him he think he is such a thing, look at him I know where he come from, he not nobody ma’am’. That is what some people are going to say. But that is what we are saying about ourselves.

What we have to understand is that our national anthem is about us; our flag is about us; the Speakership is about us; the Membership (MLA) is about us; the Ministership is about us. People are occupying the office but the office belongs to us. It is all a part of our national dignity and pride and we must be careful when we set upon to mock and ridicule it. For today you mock and ridicule it because of who is in the seat, but when you put the other person in these positions people will continue to mock and ridicule it because they have become accustomed to mocking and ridiculing the highest offices in their country. So, I do not believe that things will ever be the same again. I think that there has been a concerted effort.

Madam Speaker, I know that the referendum issue is an important issue because I hear people all the time talking about my vote for a people initiated referendum clause in our Constitution. I believe that people should have the right to trigger the decision-making process when it is important. But I believe that *to have the right to do so just to have the right to do so* would create anarchy. So, you would not want to necessarily have people advocating and saying that we need to learn a little bit more about our Constitution; we need to learn a little bit more about our systems; we need to get a little bit more involved but yet we want to have the right for a referendum. First of all let us try to learn our systems then we will know when it is necessary for something to happen and not.

It is not every time that someone disagrees with me and tells me I might be wrong in my opinion that I have to say that person is of no good. If I come up with reasons why you might be wrong it does not mean that I want to put you down and I think I am the only one who knows. God knows there are so many things that I do not know and will never know. But the Commissioners had a view on the referendum. The Commissioners said, **“In the course of our review process some representations were made for the inclusion of the Constitution of provisions to enable a referendum to be initiated by the public. We are of the view that as there was no clear-cut consensus on this point the circumstances, terms and conditions under which a referendum should be considered are matters that should be dealt with in the enabling legislation”**.

Madam Speaker, there is talk about the Checklist, and the Constitutional Commissioners say: **“In the course of conducting our Constitutional Modernisation Review a checklist was supplied to us by the Governor’s Office. In so far as the items addressed in the checklist relate to Constitutional matters these have we believe been adequately addressed in our Appendix 3. The other matters of**

a non-Constitutional nature have all, to the best of our knowledge, been effectively dealt with by local legislation”.

Madam Speaker, the Opposition has made big this whole point about the Checklist (number 18) and we have referred to the original (unabridged) version of the Checklist. I would like to compare that Checklist that the Opposition used. I am going to use that one rather than the unabridged version so that no one believes that I am making this up.

It says: - **“Do the changes suggested by the Overseas Territory Government have the majority of the support of the population?”** They cannot ask me that question so I know that it is not applicable to me. **“Do the changes suggested by the OT Government have the support of the majority of the population?”** The changes that are being recommended or suggested are not suggestions of the OT Government. The changes that are being suggested are the suggestions of the Constitutional Commissioners.

When it asks the question: **“What is the evidence for such support? Has there been extensive local consultation (with or without the assistance of a Constitutional Commissioner or Commission) . . . ”** If the Commissioners have said: - **“Having completed our review we now have the honor to submit our Report (Appendix 2) together with a draft Constitution (Appendix 3) which in our view reflects the desires of the people of the Cayman Islands”.** As the Governor had asked on the 5 June 2001 that, **“Your terms of reference are to examine the present Constitution of the Cayman Islands and, following the widest and most comprehensive consultative process, to make recommendations designed to modernise the Constitution and to ensure its compatibility with the present aspirations and expectations of the people of these Islands”.**

The Governor on the 15 June 2001, commissioned Mr. Benson Ebanks, OBE, JP, Mr. Arthur B. Hunter OBE, JP and Mr. Leonard Ebanks, JP, to do exactly what number 18 is requiring to show that there has been extensive local consultation with the people. My argument was that this Government accepts the Commissioners’ Report as the result of extensive consultation with the people.

We have disagreed with certain of their recommendations, not because they are not the result of extensive consultation; not because they do not reflect the views of the people. We have feelings about it, but we have no way of scientifically proving that that is not the case. But what we can say is that we disagree with certain recommendations because they are not practical. We have given reasons why they would create more weaknesses than strengths in the change that we are looking for.

Madam Speaker, I do not know what the fuss is all about. The idea of: Should term limits be placed on the holder of the office of Chief Minister (which is

number 5 of the referendum petition) in connection with number 3 on this paper: **“Should the proposed changes to the Cayman Islands Constitution be implemented between the dissolution of the current Legislative Assembly and the next general election in 2004, as is proposed in the Report, or should the proposed changes be made as soon as possible?”** A good way to ask this question would be: Is it democratic, after you have consulted the people, to make changes to say that you have to wait for the people to vote before you can implement those changes? If the recommendations were not based upon wide comprehensive consultation with the people then it would be undemocratic to bring these things in, but if it is based upon the widest comprehensive consultation with the people then what is the problem?

I think that the *crux of the argument* is that we have to decide whether or not there is any legitimacy or fraud with the Constitutional Commissioners’ Report. I am of the position that the Constitutional Commissioners’ Report is a genuine Report done by by persons who intended to reflect the aspirations and desires of the people of the Cayman Islands.

And if that is the basis on which I begin—because we must begin the argument someplace; we cannot be up and down with this—then it must be so that we can proceed to implement that Constitution as soon as that Constitution is approved of by the sovereign Parliament in Great Britain. Why would you want to wait on things that the people would like to have until another election when the consensus gathering process has already produced a consensus with regards to these particular issues?

So, people have now brought this back to ask: Should it come in or should we wait a few years and put it on the shelf like all the other consultative processes in Cayman; all the ones that had to do with youth violence; all the ones that had to do with the fact that we were having aged people; all the other things that had to do with recidivism in our prisons; and all the other ones that had to do with crime.

You get a scientific report about something and you begin to implement it if you have the capacity to implement it. What is stopping us from implementing this at the time in which we would get it is because of the whole situation that we have to give Caymanians in this House Honourable positions. And some people believe that certain Caymanians should not occupy these Honourable roles. So, it is not objective, I believe, to say that it is a question of national importance to spend hundreds of thousands of dollars to ask the public if this Constitution, if approved by the United Kingdom, should come into force or should we wait around until we have a next election, because that would be fair and democratic.

I fail to see how it would be undemocratic to bring it in when the recommendations that were brought were made by the people through the Constitutional Commissioners that were not coloured by bi-

ased, political partisanship. I think all sides accept the fact that this has been the case. Even the Opposition (the PPM) agreed to this so much so that they have not even formed opinions. And if they have formed opinions they have not made us aware of them so that we could debate with them the rightness of their opinions versus the rightness of our opinions.

Madam Speaker, there is no debate and if they had opinions they would be here to debate. I think they have missed an opportunity. They might not agree with me with how I am analysing this Constitution; the whole process; the difficulties that we are experiencing as a country in trying to arrive at decisions that will be good for all. They might not agree with me but at least they should hear me because I would like to hear them. I would like to hear the PPM people's position.

According to them PPM really stands for People's Progressive Movement. What is progressive? When we say something is progressive it means *beyond that which is*. So, if they are talking about a form of representation for people which is *beyond that which is* at the time, then it would be good if they were here showing people that their representation of them is beyond the representation that they now have; it is more progressive; it is thinking about everyone in the democratic process rather than a few elite people.

I think that particular Movement has found itself in a very difficult situation because the interim leader of the PPM, the First Elected Member from George Town, is a very popular politician. And very poor people and very good people have always seen him as a friend. It becomes difficult at certain times—when you are going to court the grass root people and you are going to court the people on the top in the establishment at the same time—for a politician to believe that he is going to represent both interests, when some of the interests oppose each other.

That is one reason when I formed NACE (the National Alliance of Cayman Islands Employees) that gentleman had nothing to do with me. That was probably one of the reasons why he would not run with me in the 2000 Election because he was afraid that certain people would say that he was supporting me. It would be easier to leave me out there to see whether or not I would fail or survive and then make an alliance of convenience with me later on. At least the Leader of Government Business was out there criticising me about my Union but at least he said his piece. The other one . . . I could not hear 'quey hey' from him.

Madam Speaker, I think that when you try to represent those two polls you get a conflict and the best thing to do is to keep your mouth shut and do nothing. Because as soon as you move you are going to get criticised by one side, '*Oh he not for us no more*'. So you know what he does? He learns how to keep his mouth shut: '*He is a good person*'. I am not saying no to that but look at the situation here: The goodness has to manifest itself in your actions once

you are in political office. Some people will like you and some people will not like you. But it is important to understand that you are representing the needs of the grass root people and you have to look at their real interests in the society and not at any phony interest, for example, when we can meet on this plane and that plane and everything is alright, but when you come to make your decisions you cannot include us.

So, I think for them to call themselves People's Progressive Movement—first of all, it is a misuse of the word 'people' and secondly, it is a misunderstanding of what a progressive movement is all about. Because a progressive movement has to be more progressive than people who have been fighting for labour in this country; for people who are fighting for gender equality in this country; for people who are fighting for people who have addiction problems; for people who are fighting for kids; for people who are fighting for the grass-root lower class; for lower income groups in this country, you have to be pretty progressive. So, I want to see what their political progressive platform is going to be. It is going to have to be more progressive than the Leader of Government Business. And he is going to be pretty hard to beat. That is one of the reasons why I am happy to be on the side of the Leader of Government Business because he was more progressive and it would be hard for me to be more progressive than he is. It makes sense if we are thinking on the same path; if we have the same political philosophy about the need for social and economic democracy and not just political democracy.

A lot of them are out there fighting for political democracy but no one is fighting for social and economic democracy. You could have political democracy; you could have right for referendum; you could have the right to vote, but if you do not have that right to have a House; if you do not have that right to have a job; if you do not have those kinds of social and economic rights that we all need (and a lot of them do not need) then their political rights are not going to go far enough.

So, when they are talking about the People's Progressive Movement, I want to know, How are they going to show us what their social and economic platform is going to be like?

The Speaker: Honourable Minister you have half an hour remaining.

Dr. the Hon. Frank S. McField: Thank you, Madam Speaker.

Because they have no social and political platform to stand on they have concentrated primarily in getting their Movement (the PPM) started on totally political issues and most of these issues are not even their issues.

I want to say something about one member of this society—Mr. Billy Adams. I respect Mr. Billy Adams because he is one of the people, who after a

heated debate with you, he can still talk and make jokes with you. That is the kind of person he is. He is different from most people who have political arguments. Most people get a chip on their shoulder, like the Opposition; like spoiled children. But Mr. Billy Adams will see you and he will be respectful. So, whatever position Mr. Billy Adams takes in this society he takes it with a certain amount of humour . . . remembering . . . he is not going to take it that serious. The man is not even registered to vote. The man believes that people should have the right to initiate a referendum just like I believe. The only difference is that I am registered to vote. Not only did I register to vote, but I also put myself forward to be elected. I asked Mr. Billy Adams that a long time ago. I said; *'Mr. Billy, a man like you . . . Chamber of Commerce . . . this and that . . . why not put yourself forward?'*

It is for the same reason that people can criticise but when they have to take a side they are going to be seen taking a side and people are going to say that they are taking the side of those people. A lot of people do not want to do that in Cayman, they want to pretend that they are for everyone so they prefer not to be pinned down with any political responsibilities like taking an office or even voting. Can you imagine that?

The man is talking about the fact that Cayman is an elected dictatorship and therefore he will not vote, yet he is crying down the Government of this country; he is crying all of us down on the radio station and all over the place saying how terrible we are managing the country from this particular perspective. But he will not register to vote. Many times I have asked him for his vote and to register to vote. He told me that he has supported me on occasions but he would not vote. How can you support a person but you would not vote? Because you believe that it is an elected dictatorship?

Now, he has been one of the persons who has been talking about referendum in this country for a long time. He is the person who jumps back and says, *'Frank McField, you voted for this in 1999'*. I voted for the principle of referendum; the people should have the right to initiate referendum on issues of national importance. These are not issues of national importance, as I believe and that I have demonstrated in my debate.

The fact that Mr. Billy Adams was able to get going with someone else . . . I believe quite a few of them out there are looking for political careers and I understand the tactics, I have been involved in that kind of tactics myself: You get attention and you grab an issue and you work with it. So, do not believe now that they are any different from any other citizen of our country who is seizing the possibility and the opportunity to make the Government look bad.

But the question is: Why then did the Opposition not develop a position with regards to these issues? Why did the Opposition not say to us that they believe there should be term limits for the Chief Minis-

ter and give us reasons? Why do they say the People for Referendum are saying that there should be term limits? *'So we would like to put it on as a question because there are sufficient questions for us to seek an answer'*. They want to go back and repeat the process carried out by the Constitutional Commissioners and they accuse us of being bad-minded and dictatorial simply because we do not want to corrupt the process by clouding the process with politically motivated opinions.

Madam Speaker, consensus changes all the time. If I come into this room and people are thinking one way, by the time I am finished talking they might have a different opinion. Which opinion should I go by, the one that you had when I came in or the one that you have after I am finished talking to you? Then after I am finished talking to you someone else comes to talk to you and you have a different perspective again. Each situation is going to produce a different perspective. That is what we have to understand, so we cannot dismiss the process simply because we are having different perspectives being produced. That is all we are saying.

You cannot kick the Commissioners' Report out and say that you need a referendum on these issues now, when the Commissioners' Report was as close to the referendum as you can get. As a matter of fact, it was better than the referendum because it was not coloured by political activism. In many cases that had to do with the PPM trying to politicise the population in order to gain members to their PPM—calling themselves People's Progressive Movement.

People's Progressive Movement—I look more like the people than they do. I do more for the people than they have in that sense. I have not stood on the fence; I have taken up my place out there for issues that I think are important. But what is important now is that they have no position other than to say, *'Look, let us bait the Government'*. They want to move forward with this Constitution? Let them move forward with it because it will get there anyway. *'But we as the PPM, let us stand by and give them a hard time because we know that when it comes to the issue of Constitutional Modernisation, we know how the Cayman people get'*.

There are politicians who have made a career out of frightening people about the Constitution and not ever educating people as to what the Constitution really means from the point of view of their power.

Madam Speaker, they have stayed there and have helped to agitate; they have used the situation of the Speaker's ruling on an issue of this referendum that they were going to bring—it was not even something that they contemplated themselves. It was something that someone else encouraged them to do, and I know that they would do that. So, when a person gets upset in this country, why are they getting upset? Are they getting upset because the Speaker made a ruling and it affected someone? Or, are they getting upset because their views are not being taken into account?

The process has become so muddled by the politicking of the PPM. It has become so muddled that we best trust the situation, that is, according to Mr. Benson O. Ebanks, OBE, JP, Mr. Leonard Ebanks JP and Mr. Arthur B. Hunter, OBE, **“Having completed our review we now have the honor to submit our Report (Appendix 2) together with a draft Constitution (Appendix 3) which in our view reflects the desires of the people of the Cayman Islands”**. When we kick this out of the door and we forget that these people were commissioned to tell the truth, and that they have consulted widely with the public, we are now saying that is not good enough. We want to spend a few hundred thousand dollars to deal with the issue of whether or not a person who holds a nationality in addition to British Overseas Territory citizenship, by virtue of a connection to the Cayman Islands and British citizenship, be permitted to be elected as a Member of the Legislative Assembly.

Again, Madam Speaker, our Immigration Law defines who a Caymanian is, and it is difficult enough to get to be a Caymanian because a lot of Caymanians have children and the children are not Caymanians. A lot of children were even born here and they are still not Caymanians; you can ask a lot of those guys out there. So, they want to make it more difficult and that is the reason I told my wife that although we had difficulties with the pregnancy, the child has to be born ‘ya’ [here] because Joshua is not coming into this world to fight any one about where he comes from. We remember too well where we come from.

So, Madam Speaker, this whole thing about a child being born in America for the reason that you had to take your sick wife there to ensure a positive result with God’s blessings, and you are going to say now at the end of the day that we have so many Caymanians that we can start making confusions about those little few that we have, including those Who were born in Jamaica for the same reason. Can you imagine that?

The Election Law says who can run for election and who cannot run for election. The Immigration Law already defines who a Caymanian is. Why is it that you are going to put in your Constitution something that would bar people from even running for office. Is that democratic? Now, I am not saying that if you get elected for the Legislative Assembly that I would not say to you *‘Look, maybe you might consider whether or not you want to go and give up your citizenship in America and then get them to hassle you every time you go through there’*, but what I am saying is that we should not remove this process more and more from the very few Caymanians that we have.

If you after having a child in America, because of medical reasons, and you bring that child back and raised him or her in Cayman and that child decides to keep his or her American passport in order to travel there without getting any hassle, are you now going to say to all of those kids out there—and there are a lot of them out there—that that is an issue of national

importance? To whom? I want to know if they are Caymanian because there is a Law that says whether they are Caymanian or not. And once they are Caymanian they should be able to vote, and if they can vote they should be able to run for election. I am not saying that they are going to get in but they should be able to exercise that democratic right. Why would you take that democratic right away from people and then talk about extending democracy? These PPM people should listen to themselves.

If they had been out there explaining these things to people, people would not be up in the hot temper that they are thinking that their country is some devilish place. They know that there are a lot of kids out there, so how are you going to pose that question on a referendum? How are you going to make the same sense of it? Who is going to educate people as to what the repercussions are and what the three or four or five different dimensions of the one question are? How do you ask the question?

A person who holds a nationality in addition to British Overseas Territory citizenship by virtue of a connection to the Cayman Islands and British citizenship should be permitted to run for election. I do not know what that is supposed to mean. I know that the Commissioners tried to give a definition of ‘Caymanian’ that obviously the United Democratic Party has disagreed with because we think it is exclusive rather than inclusive. I believe that to bring this up at this particular time is not to do well, and I do not believe that not to give people the possibility to answer this question is to be disrespectful of their rights and intelligence. I do not believe that that is the case not to give people the possibility to determine whether or not a Chief Minister should have term limits or not. If you say that term limits is still a question on whether or not it is going to be two terms; three terms; four terms; five terms; six terms, who is then going to then sit down and decide that the question goes on there? That is where I find the problem because the politicians are going to paint the situation with their political views.

The Speaker: Honourable Minister you have 15 minutes remaining.

Dr. the Hon. Frank S. McField: Thank you, Madam Speaker.

I think the healthiest part of the process has been completed, the part that the politicians—all of us politicians—were not involved with. It is the most reliable. The fact that people have been politicised is a good thing but people, as they begin their political journey now with the two-party system, will find that there is a lot to learn about politicians and their behavior, and that there is need to pay a little bit more attention to the motives behind political behavior sometimes. It would appear that they have tried to convince the people of these Islands that the motive of the PPM is to see that the people are represented. But if the PPM were so interested in representing the people

they would have brought their opinions to the House. The people elected them because they thought they were qualified, dignified and ready to represent. I have not heard the PPM having before any difficulties with having opinions. As a matter of fact the First Elected Member from George Town can go around in a circle ten or fifteen times within an hour and make sure to hit the same point.

So, they have had their opinions and they have voiced their opinions and now that they are not doing so the excuse for not doing so is because the people are not being heard. Ha! The Commissioners spent nine months hearing the people and now we are being criticised because we did not have anything to do with the process.

Madam Speaker, in summing up, I would like to say that I know that I have been criticised because I have come out on radio supporting your decisions in this Honourable House. But I have also given, on my TV program (the Public Eye), explanations as to why I supported you. When I spoke on the radio show I might have talked a little bit heated, angry, fast and it sounded like I was confrontational. But I was disappointed that the Speaker was taking the types of abuse [aired] on Talk Today and that the moderator was not doing enough, in my eyes, to show (what we did on the Public Eye show) that the Speaker could, in fact, have been even more severe and that the Speaker was very moderate in terms of her ruling and her judgment.

Madam Speaker, it hurts me sometimes: When I came to this House as a person who was persecuted by General Orders on many occasions; as a person who walked the streets of this country; as a person who knew what [sufferance] is; as a person who felt somehow that I have fought the battle, not that I had gone into any institution and tried to change it from the inside but I fought it from the outside for as long as I was on the outside; to be accused by the very same people that were a part of the victimisation process of being undemocratic and dictatorial. It is just like when someone, after they have trampled on you because you are black, turn around and call you a racist—that same kind of nonsense.

Madam Speaker, I am busy working to try to improve social development in this country. I see how the issue of housing is connected to the issue of poverty that is connected to the issue of juvenile delinquency and crime. I see that we have financial burdens not just upon individuals in this country but the Government itself also can no longer afford to pay for all the things that need to be paid for. And yet there are certain people who think that they are so well off and so privileged; so mighty that they can disregard the fact that the Government should be busy working with these issues, trying to see that the country is put back on the right foot that the previous Government and the last Leader put the country off. They want to tie us up in debates that are full of rhetoric and confusion.

I believe that at the end of the day the Lord did not just bring me out of the turmoil to oppress anyone, or to be intimidated by anyone. I have been in this House making speeches with regards to where I think this country needs to go. I am glad and I am proud that the United Democratic Party has become an instrument that will allow this process to take place, and I, as an individual, do not have to be out there anymore saying '*Frank McField needs to do this and Frank McField needs to do that*' but I have company to work along with and that is 'progressive'.

So I, Madam Speaker, have been alright with the fact that I am associated with a political party and I do not have to play mind tricks on people and call what I am related to a movement. Because every one knows that my TV programme, (the Public Eye) is brought to them by the New Vision Movement. The New Vision Movement is a movement because I put it in my mind and I said we would call this The New Vision Movement. I know that the most radical movement in the Caribbean was the New Jewels Movement when Bishop took over in Grenada, and when the United States had to invade Grenada because of the radical people's movement there.

The Bahamas has one political party and one Movement but that Movement is a political party because it is an entity. Why would you have an interim leader for a movement if the movement is not the same as a Party. The United Democratic Party had an interim Leader and then he was elected as the Leader at the Party's convention. So the fact that people are changing words; the fact that people are manipulating terminologies; the fact that people are playing semantic games does not change the reality. Madam Speaker, the reality is that the PPM knows they are the representatives of a privileged few that have hid behind them and people like them for years, while people like myself and the people that I represent have been pushed further back into the bushes. They need to come and tell people who they represent. And I do not mean just because you go into a bar and drink with people; I do not mean because you go to funerals and say things to people—that is not representation! I mean representing people in real life. Seeing that people's kids get education; that they have equal opportunities like their kids have; that they have the possibilities to live in the same neighbourhoods, and if not in the same neighbourhood, at least, still have houses too; and how they are going to get that when we have a bunch of business people in this country some of them who refuse to even consider the increase in wages for people in this country.

What did the PPM do when they were in power for one year in terms of increasing wages? What did they do about sports? What did they do about juvenile delinquency? They talk about building another prison to put young kids in. We are talking about freedom for them; we are talking about youth enterprise programs. We are being innovative. I had to leave a meeting today with Social Services (a con-

tinuation of my meeting with them to attempt to re-structure the juvenile services in this country, so that we have a focus; so that we have a continuum of care) to come here to debate on this particular issue, and the Opposition is not here. They should have been here and I should have been allowed to continue to deal with these kids.

The Speaker: Honourable Minister, you have five minutes remaining.

Dr. the Hon. Frank S. McField: Madam Speaker, I shall leave that for the blessed angels that shall fly you to Cayman Brac. Thank you for being here.

The Speaker: Thank you. Does any other Member wish to speak? The Third Elected Member from the district of West Bay.

Capt. A. Eugene Ebanks: Thank you, Madam Speaker, I rise to offer my contribution on the Report of the Constitutional Modernisation Review Commissioners' 2002. Before I move into my debate, if you would allow me, I will only take a few minutes to publicly thank the three Commissioners who were appointed by the previous Governor, Mr. Peter Smith, in 2001, for a job well done.

It is my intention to deal strictly with the issue on hand and expand on matters which I feel are of vital importance. We have heard of Constitutional Modernisation for quite some time now. It was back in 1999 when the Government received a White Paper from the United Kingdom on Constitutional Modernisation. Our current Constitution from the Cayman Islands Constitution Order 1972, which was made by the Queen's Most Excellent Majesty in Council on the 26 July 1972, and came in to operation on the 22 August 1972. Subsequent to that there have been four amendments to the Constitution namely, the Cayman Islands Constitutional Amendment Order 1984, the Cayman Islands Constitutional Amendment Order 1987, the Cayman Islands Constitutional Amendment Order 1992, and the Cayman Islands Constitutional Amendment Order 1993.

This year marks the 30th anniversary of our Constitution. Many changes have come about in the development of our Islands over the last 30 years. Therefore, I feel that it is time to modernise our Constitution to cope with the ever-changing times. In spite of the great lengths that the Commissioners went to inform and educate the public with regards to the modernisation of the Constitution, much has been said by the Opposition. They feel that sufficient time was not allowed for the public to give their input. However, if you would bare with me I would like to refer to pages 4 and 5 of the Commissioners' Report, which will show the length and depth to which the Commissioners went in order to give everyone an opportunity to voice their concerns.

From the review process I quote: "Our terms of reference required that we conduct the widest and most comprehensive consultative process in order to make recommendations designed to modernise the current Constitution and to ensure its compatibility with the present aspirations and expectations of the people of the Cayman Islands.

"Our first objective was to provide the public with as much information as possible about the events leading up to the Constitutional modernisation review process and the impetus for same. We also considered it necessary as a prelude to meeting with members of the public to provide them with as much educational material as possible. To this end we arranged to have the current Constitutional documents, a model fundamental rights chapter and the check list with which we had been furnished prominently displayed in all Post Offices and Public Libraries throughout the three Islands of Grand Cayman, Cayman Brac and Little Cayman. These documents were also made available on our Website and at all district public meetings and other meetings which we conducted or addressed during the review process. This proved a wise decision as the questions we were asked from time to time highlighted an overall lack of knowledge of the terms of our current Constitution and how the present system operates. The inclusion of a course in the curriculum of the local high schools on the local Constitution and how it works would in future address this lack of knowledge. We must also point out that the draft Constitution for the Cayman Islands of July 1992 that was prepared and printed following the Constitutional review and the report of the Commissioners Sir Frederick Smith and Mr. Walter Wallace in 1991 enjoyed fairly wide circulation in the Islands.

"We conducted a series of district public meetings in all of the electoral districts. Notice of all such meetings was given in the local press as well as on Radio Cayman and the local commercial television station (channel 27). A number of our district public meetings were broadcast live on Radio Cayman and the addresses at all of our meetings including those sponsored by local organisations and civic groups and the questions asked and the comments made at such meetings were covered extensively not only in the local press but also on radio and TV. In addition to our district public meetings we addressed the Cayman Islands Chamber of Commerce, the Civil Service Association and the local Lions/Leo Clubs. The Chamber of Commerce which represents more than seven hundred corporate and associate members employing nearly fifteen thousand persons, many of whom are Caymanian, also undertook an awareness initiative within its membership and employees and conducted a survey of its own on the major issues the subject of discussion at

the public meetings. Among those responding to the survey were some one hundred and six registered voters. The Civil Service Association also made a written submission. This body is representative of a fairly large percentage of the fourteen hundred and thirty seven civil servants who are currently registered voters. We also met with representatives from the Caymanian Bar Association whose membership consists of sixty-five persons holding Caymanian status and a local group who called themselves 'the Concerned Citizens'. Both of these bodies likewise made written submissions and in the case of the Caymanian Bar Association same was accompanied by a suggested draft Constitution. A written submission was also made by the Cayman Islands Seafarers' Association made up of three hundred and forty-eight retired seamen. Meetings were held with members of the Legislative Assembly and the elected members of Executive Council on a collective basis in order to solicit their views and we likewise met with the three officials in the Executive Council on an individual basis. A meeting was held with the Chief Justice and other Judges of the Grand Court in relation to the Judiciary and with the Supervisor of Elections and his deputy and a member of the Lands and Survey staff on the matter of the boundaries of electoral constituencies and the number of electors in each. We interviewed many members of the public who are registered electors in the offices that have been provided for our use. Many others have spoken to us on a one to one basis.

"In addition to the foregoing we prepared a questionnaire listing the main issues that were discussed at our district public meetings. This was distributed as a 'flyer' in the Caymanian Compass a local weekday newspaper that enjoys wide circulation. A number of these questionnaires were completed and returned to us of which one hundred and sixty-one were submitted by local registered electors.

"We are satisfied that as a result of the public meetings, the media coverage, the various awareness campaigns as well as the surveys mentioned the entire population of the Cayman Islands have been made fully aware of the Constitutional Modernisation Review Process and the major issues that were being discussed and have been given every opportunity to express their views on all such issues". It goes on to say; "In addition to the written submissions mentioned more than sixty others expressed their views to us in private interviews. We are confident that the general considerations and specific recommendations set forth in chapter three of this report reflect the views of a majority of the registered electors of the Cayman Islands".

[Deputy Speaker in the Chair]

Mr. Speaker, how can the Opposition say there was not enough time? It has been 10 years since the report of Sir Frederick Smith and Mr. Walter Wallace has been circulated. It has had wide circulation. How then can the Opposition say there was not enough time for the public to give their input?

The Commissioners took nine months to complete their Review. Additionally, the United Democratic Party held public meetings throughout these Islands to further educate and inform the public on the modernisation of our Constitution and to get their input.

It has been more than a year now since the Review process started. I submit that 12 months is a very reasonable length of time to make your intentions known on an issue if you have concerns. Yet, it has taken this long for the Opposition to decide that they want referenda.

According to the Oxford concise dictionary of politics, one of the uses of referenda is given as: "Politicians may use referenda as a publicity device". I submit that the Opposition is using referenda to confuse, mislead the public, destabilise the country and gain publicity.

There is little doubt that our Constitution has served us well over the past 30 years. However, the Modernisation Review, which has been undertaken is timely, in that, it not only presents the opportunity to correct some needed inadequacies but also to address some of the concerns and omissions that were alluded to. And to ensure that the political development of these Islands keep pace with their enormous physical, financial and social growth.

Because of the contentions that the Members of this Honourable House are faced with, I would suggest that we are all adults and we should be responsible. I say let us put the petty politics aside and come together. Let us look at the Report as responsible representatives and move forward for the betterment of our Islands.

Mr. Speaker, a country divided cannot stand. I thank you.

The Speaker: At this time we will take a five-minute suspension.

Proceedings suspended at 6.45 pm

Proceedings resumed 6.55 pm

[Madam Speaker in the Chair]

The Speaker: Please be seated. Proceedings are resumed. Does any other Member wish to speak? If not, does the Honourable Mover wish to exercise his right of reply?

Hon. W. McKeever Bush: Madam Speaker, when I completed my speech a few days ago I knew that I had capable Members of this Honourable House to

continue the debate, and as I listened, the United Democratic Party Members have been true to form intelligent and educational debate.

I do not intend to be long because I consider that the debate by my colleagues have explained, as fully as people want to understand, the various recommendations of the Commissioners and the position of the United Democratic Party.

I do want to say briefly that the Opposition has challenged me to say why I shifted my position on referendum. I have not shifted my position on referendum. The position I took, I maintain today that same position, that is, a referendum can possibly work when you are asking a single question which will require the public to say yes or no. But I maintain that there is no way that I can support all those questions because they are not issues of national importance. If there were a question about whether we want independence, yes or no, then surely that is the kind of question on which you would call a referendum. And the proposals before us on the Review would be put into an amended Constitution for these Islands.

I do not believe that the confused condition that the Opposition allowed (the whole call for referendum) to get out of hand is good for the country.

There were people asking, *'Well what is a referendum?'* They did not know and it is sad that the Opposition utilised their time to mislead rather than to educate the public. All they did was to get out there and say, *'The Government is taking away your right to speak'*. That whipped up people's emotions. But that was not true. The people who wanted to speak did so.

It is sad that we did not have an Opposition responsible enough to educate the public on what this was all about. Other Members have already spoken as to the cost and I fail to see why we should spend that kind of money. The Election Officials have said that it will cost this country \$600,000 to take a vote on whether or not the Speaker should come from inside or outside the House. We already have that situation and it works, so I am not going to be the representative to say yes to that type of situation.

There is also much being said about the process we used to verify the petition and the petitioners' names. But we had to verify the true and legal names on the petition. I contend that was the best process for had I tried to verify them the UDP would have been blamed and the PPM would be blaming us for the vast amount of names not being taken into account by the Election Officials.

It is not legal for names to be on a petition unless they are on the voters list. It is illegal; it is wholly incorrect for the PPM to allow visitors (tourists) to our Islands to sign the petition. It was totally incorrect for them to allow children to sign the petition. Madam Speaker, it was wrong for anyone who was out there getting signatures and we did not deride them; we said that was their privilege if they so wanted to do. But it was wrong for them to tell people the things they told them about independence, and

about whether or not they wanted Kurt or McKeeva. Those are the kinds of things that misled the public.

I have people (my supporters) who were told *'This is not against McKeeva, this is against independence'*. So they signed it and after it was explained to them they now want to take their names off. However, I have not attempted to do that but I believe the Opposition did the people wrong in not educating them about what the process was.

Madam Speaker, the Opposition has also said that there must be single-member constituencies. Well, the UK, in their local government elections, elect three members per constituency—that is in the UK. Why should we rush into instituting a single member constituency system here in the Cayman Islands? No one has considered the cost for each constituency office that would have to be put in place. Since the Minister of Education pointed that out the other day, they have questioned, *'Well, is that so?'* Well, certainly, if you have 17 constituencies then you are going to have 17 constituency offices. Now you have a maximum of six constituency offices.

So, Madam Speaker, they have not considered all the costs attached and the various problems as was pointed out to them. I have always maintained that there is no problem in our system. Which system in the world can get a 90 plus percent turn out and there is hardly any problem? It has done so well. The people go to the polls and they vote for one, two or three people—in some instances one but that is because the district is so small. If they had a larger number of people they would have more representatives. So, there is nothing wrong with our system. Our system has worked and it will continue to work if they allow it. But if they go and change into something that we do not know about, culturally or historically, it will do us no good.

Madam Speaker, since the start of the public debate on the Constitutional Commissioners' Report, we have heard a lot of noise coming from the Opposition in their attempt to use the issue of the Constitution to divide the people and to increase their own political capital. Despite of the noise they have been making and the way they have sought to disrupt and delay the entire process, what we are seeing is a clouding of the issues and a 'wishy washy' approach to the constitutional review process by the Opposition.

Their [the Opposition] latest statements regarding the proposal for single-member constituencies in Cayman Brac and Little Cayman is yet another example of their type of approach. The Opposition said at the very outset, I believe in March or April of this year, that they support the Constitutional Commissioners' proposal for single-member constituencies on the grounds that it represents true democracy and they follow the logic of the proposal to have 17 constituencies across the three Islands.

Later, after the people of Cayman Brac made their Opposition to the proposal for single-member constituencies absolutely clear to them, we hear the

Opposition now saying that they see a difficulty with the arrangement for Cayman Brac and Little Cayman. Now, the Opposition is telling the people of Cayman Brac that even though they know that they (the people of Cayman Brac) have concerns about single-member constituencies, the people of Cayman Brac, they say, can vote No to the proposal if it comes to a referendum. What sort of situation is that?

It is absolutely clear that the Opposition is prepared to disregard the peculiar situation on Cayman Brac and Little Cayman, despite the people's overwhelming and clear indications that there must be careful consideration on how the proposal for single-member constituencies is implemented in the sister Islands.

What the Opposition has been doing is *hedging their bets*; going wherever the wind blows and misleading the people in the process. They have done the same thing with the call for referendum. They themselves admitted that they had no clue as to how a referendum on multiple issues should be conducted. The people would know more clearly where they stand if they had been prepared to debate the Constitutional Commissioners' Report in this Legislative Assembly.

Madam Speaker, one newspaper report quoted the Leader of the Opposition as saying, "**London has specifically stated there is no time line set**". He told the group, "**The Overseas Territories, Anguilla, Montserrat and the Turks and Caicos Islands were way behind the Cayman Islands in the process and nobody is frustrated about a single thing**".

Madam Speaker, it shows you the lack of understanding of the Constitutional process and what needs to be done. The Turks and Caicos Islands and the British Virgin Islands, Anguilla and Montserrat are all much more advanced constitutionally than the Cayman Islands. We are trying to get a Constitution modernised for our particular situation, but it would be a similar constitution to theirs. But they had theirs working for years so it is no wonder that there is no upheaval in those Islands. Those Islands do not have people running around confusing the populace about the Constitution because they had the system for years. So, it was only, again in that speech, another attempt by the Leader of the Opposition to mislead the good public of this Island.

I wonder why all this time we have not heard anything about whether or not it is good, in the Cayman Islands, for a representative to live in one district and represent another district. What kind of democracy in Cayman would that be? We have not heard anything about that but perhaps the Leader of the Opposition needs to put that on the referendum list.

The Leader of the Opposition and the PPM has said much about the Checklist from the United Kingdom. In fact, for the day that he was in this House he hinged his whole reason for not being in this Honourable House to debate, on that Checklist. However, the list he was reading from was an abridged version

of what was actually sent by Her Majesty's Government in the UK. But the Checklist was not sent by London as a law that binds us; it was but a suggestion that we could follow where it was practical and appropriate so to do. Indeed, as has been pointed out, we are following it as closely as possible. But it is totally wrong for him to get up here and use a list from which parts were taken, to say this is why he is not in this Honourable House.

The Leader of the Opposition also said that no MLA could say with certainty what a majority of the people wants, and that the only way to know this is through a referendum. But it is significant to note that even with a petition circulated and their call for 15,000 signatures, it is clear that those advocating a referendum are not in a majority.

The Opposition points to clause 18 of the Constitutional Modernisation Checklist, which speaks to extensive local consultation, and whether the proposals have the support of the majority. This same clause calls for debate in the Legislative Assembly on the proposed changes and approval by Motion of such proposals. They never gave us a chance to ever explain what we were doing. I had my strategy and he will find out before the day is out what the full strategy was.

While the Checklist calls for debate in the Assembly and approval by Motion of such proposals—yet the Opposition has opted to boycott the debate, which is an essential part of the very requirements that are suggested in the Checklist used by the Leader of the Opposition. If he was following that Checklist why is he not in this House to debate?

It is clear that in this matter the Opposition is applying a double standard as usual. On the one hand it is content to boycott the debate but on the other hand they seek to suggest that the Constitutional review process, thus far, does not reflect the views of a majority. How can the Opposition pretend to uphold one standard but is prepared to disregard the other?

The Opposition had been of the same view of the UDP that more time should be allowed for public consultation and discussion on the Constitutional Commissioners' Report. The Government had requested of the Governor that additional time be granted before the debate. And there was a further nine weeks extension before the 19 June set for debate in the Legislative Assembly. But as the debate came closer the Opposition tried everything to force a delay. Even today they are still insisting on prolonging the process when it is now clear that those calling for a referendum and postponement of the debate do not represent the majority. We do know that they tried to get everyone in the country to sign. Out of whatever number of adults in this country who are of age [to sign a petition], they only got 7,000. But it is more important to note that the number of electors, which is the legal position, comes close to 12,000 and we only had just under 4,000. So, which is the majority?

I have always trusted the good commonsense of the people. That is why I have been in this House—this is my fifth term—because I know that the vast silent majority are not stupid; they have good commonsense even if they do not have university education. I trust the commonsense of the Caymanian people.

If people were agreeing and wanted to sign the petition with these people [for referendum] going everywhere; in every corner; in every gas station; in every supermarket; at every bar; in every home—they had the opportunity to get a lot more signatures. But that is yet to be proven. When the time comes Caymanians will go to the polls to place their satisfaction or dissatisfaction with your record of representation. That is why I believe that referenda cannot work. I believe that we are sent here to represent the people and that is why they go to the polls. But I will never agree to run a government totally on the issues of referenda. What chaos that would be!

Madam Speaker, it should now be clear, based on the confrontational way the Opposition has chosen to deal with the Constitutional review process, that unnecessary delays in moving the process forward will be at great cost to the Cayman Islands at a time when our country can least afford it. If we fail to do what we are supposed to do—and that is to lead and to act decisively—we will be jeopardising the future security and prosperity of the Cayman Islands. And the best Constitution in the world will not be able to save us if we allow our unique way of living in this country to be eroded by our failure to act.

The public must ask [themselves] now: Where is the Opposition's position on the Report of the Constitutional Modernisation Review Commissioners? Why has this not been the subject for public scrutiny up to this eleventh hour in this whole exercise? Why? What we are doing here is no insult to the public. In my opening some days ago I said this is not about the people; that is not what they are concerned about. All this brouhaha and all this noise, name-calling and outrageous statements, on those radio shows everyday—this is not about the people.

At the meeting on the steps of the Court House by the Opposition, the Second Elected Member from George Town said to the people and I quote, **“You must take back the power they took from you last year”**. That is what this is all about. They lost their ability to govern—they did not, and so they lost because had they done their job they would still be here today and no Member of this Legislative Assembly could lift a finger against them.

A good Constitution is needed, but more than that, if you had the best Constitution in the world but you had ingenuine people it would not help. We need genuine representatives—that is what is needed most. What more proof do we need of the inadequacies of the Opposition than the fact that they walked out of this Legislative Assembly when they could not have their way—walked out of this House to conduct a one-

sided debate on the street corner or in a bar room or some place.

When an Opposition fails to attend the Assembly they are betraying the trust that the people have put in them. And when they do not come to this House they have delivered a damning criticism of themselves and have underlined their inability to understand the parliamentary democracy, which they say they believe in. All they are doing is telling us that they have no respect for parliamentary democracy—which they are supposed to uphold as a parliamentary Opposition—showing contempt for the citizens who elected them.

Madam Speaker, everything that could be said up until now has been said by the Government. What is the process now? What will happen next is that the Governor will send the Hansard reports of this Honourable House along with all relevant documents in this Review, including the report of the Election Office Officials on the petition. After that we will wait until London comes back to us for consultation, at which time we will again consult the public of this country as to what is taking place.

Now, we must get on with the job of running this country and dealing with the vast amount of problems that we have. And I ask one and all to cooperate.

Madam Speaker, I will get back to the economy because at the end of the day what use are words on a piece of paper if you cannot pay your bills and raise your children in decency. The economy is what is important to me at this time. The situations we are facing are important to me at this time. I am asking everyone—the Civil Service of this country, which I know can do the job; every department, including Planning—to get the economy going. That is the body. As I stand here as Leader of Government Business and a representative of the people, we need the help of everyone to make this country tick. I cannot stress how many problems we are facing, some of which the people cannot be told in some instances. Again, I ask everyone in this country to get back to business.

Madam Speaker, I want to thank all my colleagues for being here to stand for what they believe is right, and for the debates that they conducted. At times it seemed heated. Maybe some people thought it was personal, but when you consider that the newspaper rang everyday with stories from the Opposition; the amount of innuendo, slander and words that even came on our government radio station—I wish I had three people in a newspaper that could put forward the UDP's position all the time—I can understand the feelings of some Members because we are all human beings. But now! It is time to get back to business.

Madam Speaker, I thank you for your indulgence and for staying here so late to complete business. I do thank all the staff of the House as well for being here late to conduct business, even in the absence of an Opposition.

The Speaker: Thank you, Honourable Leader. That now concludes the debate on the Motion that this Honourable Legislative Assembly debates and takes note of the Report of the Constitutional Modernisation Review Commissioners 2002. The Honourable Legislative Assembly has accordingly debated and has now taken note of the Report of the Constitutional Modernisation Review Commissioners 2002.

Honourable Leader of Government Business.

**Motion without Notice
Standing Order 24(9) (h)**

Hon. W. McKeeva Bush: Madam Speaker, in accordance with Standing Order 24(9) (h) I wish to move a Motion that the House do now accept the United Democratic Party's Position Paper on the Report of the Constitutional Modernisation Review Commissioners 2002 and Draft Constitution for the Cayman Islands, which was laid on the Table of this Honourable House on Friday, 22 June 2002.

The Speaker: The Motion has been duly moved and is now open for debate. Does any Member wish to debate or does the Honourable Leader wish to make further remarks?

Hon. W. McKeeva Bush: Madam Speaker, I do not think anyone is going to speak. I just want to thank everyone for getting thus far and again thank you for your indulgence.

Madam Speaker, I opened the debate by saying that we had to change the Motion we first had because there were sections that we disagreed with and sections we supported. So, we had to put forward a different Motion – one to take note, and then to take a vote on our position as a Government. And that is the Motion before this Honourable House.

The Speaker: If no Member wishes to speak, the question is that the Honourable House now approve the proposals set out in the United Democratic Party's Position Paper on the Report of the Constitutional Modernisation Review Commissioners 2002. All those in favour please say Aye. Those against, No.

Ayes.

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

Agreed: That this Honourable House approve the proposals set out in the UDP Position Paper on the Report of the Constitutional Modernisation Review Commissioners 2002 and Draft Constitution of the Cayman Islands, laid on the Table of this Honourable House on Friday, 22 June 2002.

The Speaker: May I have a motion for the adjournment?

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, I move the adjournment of this Honourable House until 10 am Wednesday, 3 July 2002.

The Speaker: The question is that this House do now adjourn until 10 am Wednesday, 3 July 2002. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 7.35 pm the House stood adjourned until 10 am Wednesday, 3 July 2002.

OFFICIAL HANSARD REPORT
WEDNESDAY
3 JULY 2002
12. 01 PM
Tenth Sitting

[Deputy Speaker in the Chair]

The Speaker: I shall invite the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs to grace us with prayers.

PRAYERS

Hon. James M. Ryan: Let us pray.

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

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

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

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

Proceedings resumed at 12. 04 pm

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

Apologies

The Speaker: Please be seated. Proceedings are resumed. I have received apologies from the Honourable Speaker who is out today due to illness. I have

also received notice of the late arrival from the Honourable Leader of Government Business, the Minister of Tourism and the Honourable Minister for Health.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**The Development and Planning (Amendment)
(Heights of Buildings) (No. 2) Regulations 2002**

**The Building Code (Amendment) Regulations,
2002**

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Thank you Mr. Speaker.

I beg to lay on the Table of this Honourable House, two papers. Firstly, The Development and Planning (Amendment) (Heights of Buildings) (No. 2) Regulations 2002 and secondly, The Building Code (Amendment) Regulations, 2002.

I do not propose to speak on these today, as I will be dealing with the substance of these papers in Government Motions No. 4/02 and 5/02 on Friday.

The Speaker: So ordered.

**QUESTIONS TO HONOURABLE
MINISTERS AND OFFICIAL MEMBERS**

Suspension of Standing Order 23(7) and (8)

The Speaker: Deputy Leader of Government Business since we have passed the hour of 11 am, could I have the motion for the suspension of Standing Order 23(7) and (8) to allow Question Time to continue?

Hon. Linford A. Pierson: Thank you, Mr. Speaker. I wish to move the suspension of Standing Order 23(7) and (8) to be able to take Parliamentary questions after the hour of 11 o'clock.

The Speaker: The question is that Standing Order 23(7) and (8) be suspended to allow Question Time to continue beyond 11am. All those in favour please say Aye. Those against, No.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended in order for Question Time to be taken beyond 11 am.

Question No. 31

The Speaker: The Second Elected Member for George Town.

No. 31: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Planning, Communications, Works and Information Technology, if Government has received any applications from information technology providers with respect to services currently provided only by Cable and Wireless (Cayman Islands) Ltd. , under the terms of their exclusive licence and, if so, please provide details.

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Thank you, Mr. Speaker. The answer: The new Information and Communications Technology Authority, which will be the body responsible for processing such applications, has only been established recently. As it has not finalised the content of the required application forms or the draft generic licence agreement, the Authority is not yet in a position to accept applications.

Nevertheless, Government and the Authority have received expressions of interest from a number of organizations, which range from full-service telephony providers to companies interested only in a particular ICT service or ICT network. As these companies cannot make firm commitments until details of the commercial terms and conditions, including licensing, are available, it would be inappropriate to give further details at this time.

The ICTA, assisted by LEGG Ltd, our ICT consultants, and my Ministry are working on the terms, conditions and licences as quickly as we can. As the commercial and licensing conditions must apply consistently to all companies in the sector, some must await the outcome of the current negotiations with Cable & Wireless Ltd.

Supplementaries

The Speaker: The Elected Member for East End.

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

I wonder if the Minister could tell us of the expressions of interest from a number of organisations, if those are local companies or foreign companies.

The Speaker: The Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Speaker, I think it would be fair and truthful to say that I have received from both local and foreign.

The Speaker: The Elected Member for East End.

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

Can the Minister then tell us if those companies, in particular, the ones from overseas, if they are established telecommunications companies in other companies?

The Speaker: Honourable Minister for Communications.

Hon. Linford A. Pierson: The answer is 'yes', Mr. Speaker.

The Speaker: The Elected Member for East End.

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

I wonder if the Minister would mind telling us the names of those companies.

The Speaker: The Honourable Minister for Communications.

Hon. Linford A. Pierson: Mr. Speaker, as I said in the substantive answer, these companies cannot make firm commitment until details, commercial terms and conditions, including licensing are available, and at this point it would be inappropriate to give any further details.

The Speaker: Are there any further supplementaries? If there are no further Supplementaries, we will move on to the next question.

Question No. 32

The Speaker: The Second Elected Member for George Town.

No. 32: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Planning, Communications, Works and Information Technology, what is the purpose of the forensic audit of Caribbean Utilities Co. Ltd. recently announced by the Honourable Minister responsible for Tourism, Environment, Development and Commerce.

The Speaker: The Honourable Minister.

Hon. Linford A. Pierson: For the benefit of Members of this Honourable House, I will read the full Terms of Reference for CUC Special Review, which is as follows:

1.0 The Guaranteed 15 per cent Rate of Return

a) To establish when and why was a 15 per cent guaranteed rate of return agreed; to advise whether this was a typical Rate of Return expected for this industry at the time the agreement was negotiated; and whether it is still relevant in today's current economic environment with markedly lower interest rates, privatisation and competition in many developed economies.

2.0 **Generating Capacity**

- a) To validate whether the generating capacity complies with the requirements of the licensing agreement, and to prepare a historical analysis of actual generating capacity compared to maximum permissible capacity consistent with the terms of the Licence Agreement.
- b) To determine why the formula for reserve generating capacity was incorporated into the licence agreement and whether it is appropriate in the modern operating environment.
- c) To review reserve generating capacity using a Loss of Load Probability approach.

[The terms of the licence indicate that at all times CUC shall to their best efforts ensure that the reserve generating capacity is not less than the rated capacity of the largest generator, plus 10 per cent of the most recent annual peak power demand. Unless approved by the Government, this reserve generating capacity shall not exceed the rated capacity of the largest generator installed plus 40 per cent of the most recent annual peak power demand. Any new generating unit shall not exceed 20 per cent of annual peak power demand.]

3.0 **Investment**

- a) To review CUC's power generation and transmission and distribution capital investment program covering the period 1995 –2010 (forecast) and to evaluate the technical, economic and business justification of major projects from the viewpoint of the all stakeholders (i. e. , shareholders, employees, consumers, and Government), *taking into account the demand growth and customer growth forecasts.*
- b) This could be extended to other major capital projects once preliminary analysis of the Company's fixed assets has been completed.
- c) To establish whether CUC perform ex ante evaluations of major investments and to review the results thereof.
- d) To examine the benefits of the strategic alliance agreements between CUC and MAN B&W Diesel Germany and ABB T&D Power Company Inc. of the USA.

4.0 **Production and Selling Costs**

- a) To compare CUC's actual production cost per kilowatt hour with other similar jurisdictions (i. e. small island economies in the Caribbean and/or elsewhere that use diesel generation). A historical cost trend line could be established and projected if possible. A further breakdown of the production cost per kilowatt hour would be useful (i. e. , Generation, T&D Admin).
- b) To compare CUC's kWh costs to residential and commercial customers with other similar jurisdictions (i. e. small island economies in the Caribbean and/or elsewhere that use diesel genera-

tion). A historical cost trend line should be established.

- c) To benchmark key operating parameters, including system reliability, generating plant efficiency, losses by voltage level, and non technical losses

[It might be expected that there will be substantial variations in the costs of generation between different utilities, due to difference in fuel costs, local taxation, plant size and age, level of maintenance, etc. If possible, equalise the cost of hydrocarbon fuel tax (i. e. fuel taxes, surcharges, etc) when doing the comparisons.]

5.0 **Fuel Adjustment Factor**

- a) To validate the fuel adjustment factors applied for 2000 and 2001 to CUC data.

6.0 **To investigate and enquire into any other matters which, in the opinion of the Auditor General, are relevant to the operations of the Licence Agreement by CUC.**

The Review has just begun and is being undertaken by the office of the Auditor General with technical assistance being provided by Power Planning Associates of the United Kingdom.

Supplementaries

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr: Thank you, Mr. Speaker.

The Honourable Minister responsible for Tourism, Environment Development and Commerce, referred to a forensic audit of Caribbean Utilities Company Ltd. , (CUC) in his address. The Honourable Minister responsible for Planning, Communications, Works and Information Technology in his very comprehensive response has referred to the terms of reference for a CUC special review. I wonder if the Honourable Minister could say whether these are one in the same or whether when the Honourable Minister for Tourism made his announcement he was referring to this particular exercise, that is, the Special Review; or if, in fact, the terms of reference have now been broadened subsequent to the Honourable Minister for Tourism's announcement.

The Speaker: Honourable Minister for Communication, Works and Information Technology.

Hon. Linford A. Pierson: Mr. Speaker, the CUC Special Review Audit that is being carried out, which I just gave the details on, is one in the same as the forensic audit referred to by the Minister for Tourism, Environment, Development and Commerce.

A forensic audit is an in-detail audit of a particular area of a company or a company as a whole. An in-depth audit as opposed to what is normally referred to as a financial audit that is usually carried out on banks, trust companies and so forth.

The Speaker: The Elected Member for East End.

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

The substantive answer is quite detailed but I wonder if the Minister could tell us if in all this detail review, whether or not Government receives this type of information on a regular basis from the CUC providers.

The Speaker: The Minister for Communications and Works.

Hon. Linford A. Pierson: Mr. Speaker, the short answer would be 'No', but I will just expand on it a bit.

The Honourable Member will note the detailed answer that I gave, which I gave so that it would provide information to the House. On the first point the guaranteed 15 per cent rate of return, you will note that not only are we questioning the 15 per cent rate of return and I will just read this over for the listening public. It says that the purpose of this is: 'To establish when and why was a 15 per cent guaranteed rate of return agreed;' That would not be easily available in the financial audit that CUC is now having done. This type of information is not available through that process. It goes on to say: '. . . to advise whether this was a typical rate of return expected for this industry at the time the agreement was negotiated'. Neither would that information be available in the financial audit. It goes on further to say: '. . . and whether it is still relevant in today's current economic environment with markedly lower interest rates, privatisation and competition in many developed economies'.

Mr. Speaker the financial audits usually deal with the accuracy or otherwise of the accounting procedures, or whether certain methods have been properly applied. However, it is mainly interested in accuracy of the figures being presented and not the detail in-depth audit that will be carried out in the CUC Special Review that I have commissioned.

The Speaker: The Elected Member for East End.

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

It appears to me that the Minister is saying that we are going back 30 odd years to find out if 15 per cent was the standard at that time. I wonder if he can comment on that.

The Speaker: Honourable Minister for Communications and Works.

Hon. Linford A. Pierson: Mr. Speaker, this would indeed be a simplistic approach to it. We can count from the time that CUC had its licence back in the 60's and subtract it from 2002, we will get some 30 years, but it much more detailed than that.

The 15 per cent rate of return is only one part of the terms of reference and we have to determine whether it was and is still, especially at this time, justifi-

fied in today's market and these are the things that we are checking on. We are also checking on generating capacity and the whole idea of this is to determine whether the capital expenditures are warranted. Whether the generating capacity is what is required or more than what is required.

Also on the type of investment, as you will see in the third segment of the answer we are dealing with investment, and we are looking at transmission and distribution on capital investment program covering from 1995, but we are projecting that into 2010. So, when the Honourable Member really look into the details we are going into, he will see that this is indeed what is required to fully understand whether CUC is operating, not only in accordance with the licence, but indeed, in accordance with what is done in similar situations in other areas such as within the Caribbean.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. This is in regards to the Minister's answer to the supplementary just a minute ago, regarding the 15 per cent rate of return and going back to the original agreement, which may well have started off at 15 per cent and then speaking to the justification of the 15 per cent. In the franchise agreement that is enforced at present, can the Minister state if there any conditions within that agreement which might allow for any change of the rate of return to take place and if it allows for that, under what conditions might this occur?

The Speaker: Honourable Minister for Communications and Works.

Hon. Linford A. Pierson: Mr. Speaker, the Agreement that is now in effect between CUC and Government is the 25 year Agreement that was signed back in 1986 and expires in 2010. That is a fixed Agreement and as a Government we are really honoured as such. What we are doing at the present is negotiating with CUC Ltd. to have that 15 per cent removed.

I believe that it is generally felt throughout the Island that perhaps in 1966 or thereabouts, when CUC was established that they needed some form of incentive for them to enter into the capitol expenditures that they did at the time but the question has to be asked now, whether Government should still be guaranteeing them a guaranteed 15 per cent return. The answer that the Ministry and others have come up with is 'No'.

If through their prudence they make a 20 per cent return on their capital employed then that is good for them, but if they make a 12 per cent return then they should also live with a 12 per cent return. There is no reason why Government should have to still be guaranteeing CUC a 15 per cent return. No other company on this Island that I know of is guaranteed by Government any level of return on their capital em-

ployed and this is the whole question. This is why the forensic audit is being done (the Special Review) to determine some of these areas. This is also why in the answer one of the reasons under the terms of reference is to determine whether it is still relevant in today's current economic environment with markedly lower interest rates, privatisation and competition in many developed economies.

To specifically answer the Members question, there is no break clause in the Agreement, thus the reason why we are negotiating the severance of this section of the agreement.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. I think I understand the answer that the Minister has given and it certainly would lead to a follow up question.

When determination is made via this audit that the 15 per cent rate of return is not relevant giving the climate that exists today, then could the Minister state if there are any talks within these negotiations, which would specifically refer to then how would CUC justify any rate increase if there is no fixed rate of return? What benchmark would then be used for them to be able to speak to any increase in rates at any point in time?

The Speaker: The Honourable Minister for Communications and Works.

Hon. Linford A. Pierson: Mr. Speaker, on that particular point, the purpose of many utilities commissions is really to look into details such as this and the (ICTA) that is the Information Communication Technology Authority, will also until such time as is determined, we need a specific utilities commission be examining this with specialists brought in for this purpose, so we will be looking at this.

It is not really necessary for Government to have to guarantee CUC any specific amount of return in order to be able to determine whether any applications they make for an increase is valid or not. We would be able to determine this through our technicians and what applies generally in the market. So, this is an area that we will be able to address.

I would like to say, Mr. Speaker, with your permission that we have to understand for many years now CUC (even in our boom period) has not, for whatever reason, met the 15 per cent return. It is always 12, 13 or there about, so that they have continually have to come to Government for an increase. When, my good friend, the First Elected Member for George Town was Minister for the same subject, he had an application and it was then decided that a proper study would have to be done, and I want to thank him for that, before an agreement would be made on any increases being approved to CUC.

This trend will continue until such time as we have the empirical evidence that this is in-fact justifi-

fied. The way that the return of capital employed is done is by expressing the net income over the whole capital employed or the assets base. Well one can easily see that if you increase that asset base that it will be harder and harder for you to get the end result being the figure that you want. For example, ten dollars out of one hundred would give you 10 per cent but if you increase that bottom to one thousand then ten out of one thousand is going to give you 1 per cent, thus the reason we need to do an in-depth study, not only of the 15 per cent return but indeed, on the whole asset base of CUC in addition to the other points, which I have earlier raised.

The Speaker: I will allow one more supplementary.
The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. The Minister spoke of the asset base when determining load factors and the 15 per cent guaranteed rate of return. I wonder if the Minister could tell us if there are any provisions in the licence which says that the Government must be notified when CUC is proposing to install additional generating capacities or such, and what is done with that information if it is given to the Government at the time.

The Speaker: The Honourable Minister for Communication and Works.

Hon. Linford A. Pierson: There is provision within the current Agreement that CUC must notify the Government before and obtain the Government's approval before making an increase in any of their rates, thus the reason recently why CUC advised the Financial Secretary and myself of their interim financial returns, shortly after they published it in the papers (that did not receive the approval from myself). However, they did not have to get approval to put it in the paper if they wished. It was after that I decided to put a statement in the papers and publicise the Government's position on the whole matter. So, CUC must at all times, work through the Government and get the permission of the Government on this increase.

Mr. Speaker, if I have not answered the Honourable Member's question, I would be happy, with your permission for him to restate specific areas that he is still having a problem with.

The Speaker: The Elected Member for East End.

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

My question was specific to investment on the asset base in relation to the returns and that is generating, distribution and transmission capacity. When CUC proposes to increase their asset base in relation to the 15 per cent return, is that information passed the Government for approval? In other words that is to say, for instance, if they want to install another gen-

erator, which the formula is very specific, as the Minister has laid out here.

Is CUC obligated by licence to inform Government of their proposals and when they do, if they do, what is done with that information? Is it verified by Government at that time?

The Speaker: Honourable Minister for Communication and Works.

Hon. Linford A. Pierson: Mr. Speaker, I can only speak to what has obtained since I have taken over the Ministry, but I do believe that my predecessors have also checked whatever request was made from CUC. However, if they want to bring in a new generator they do not have to get Government's approval for that and this is precisely what I was trying to explain in regards to the rate of return on capital employed.

The rate of return on capital employed, as I expressed earlier, is the percentage of the net income or net profit expressed over the value of the equipment or the assets being employed. The point I was making is that if you increase that asset base and that generating capacity, for example, is not really required and this is the question of generating capacity; this is why we are doing an in-depth study on that. If that is not required, and we are not suggesting that it is not, thus the reason we are doing an audit because if we knew the answers we would not have a Special Review Audit being done. However, if that has increased then you will not be able to attain the results you should normally obtain. In other words, I gave the example earlier; if you increase the bottom and the top position remains the same then the percentage decreases and thus the reason for the in-depth audit.

I hope that I have answered the Honourable Member.

The Speaker: Madam Clerk.

Question No. 33

The Speaker: The Elected Member for East End.

No. 33: Mr. V. Arden McLean asked the Honourable Minister responsible for the Ministry of Planning, Communications, Works and Information Technology, if a specific date has been set for complete liberalization of the telecommunications industry in the Cayman Islands.

The Speaker: The Honourable Minister for Communication and Technology.

Hon. Linford A. Pierson: Section 75(4) of the Information and Communications Technology Authority Law 2002 states that the Governor in Council shall specify, by notice published in the Gazette, the termination date of the agreement between the Government and Cable & Wireless (Cayman Islands) Ltd for

the exclusive provision of telecommunications systems and services. Until that notice is published, no date can be set for the commencement of liberalisation.

You may recall that I have previously shared with this Honourable House my tentative timetable for the introduction of competition. In that timetable, the target date for the commencement of liberalisation was August 2002. Unfortunately, it was not possible to bring the new ICTA Law to this Honourable House until March 2002 rather than November 2001, as originally planned. As a consequence, the target date was amended by one month to September 2002, and my Ministry is still working towards this goal.

Returning to the substantive question, I would like to differentiate between complete *liberalisation* and complete *competition*. Our aim is to completely liberalise the ICT sector that is to be in a position to issue non-exclusive licences for all ICT networks and ICT services, in September of this year. We estimate that full competition will be in place by July 2004. Members will appreciate, however, that these dates are dependent upon many factors, including the completion of negotiations with Cable & Wireless, the speed with which the ICT Authority can accept and process licence applications, and how quickly alternative service providers can establish an operational presence in the Cayman Islands. Not all of these issues are under Government's control.

Supplementaries

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. The Minister says that the dates are dependent upon the completion of negotiations with Cable and Wireless, which I understand. He also states the termination date between government and Cable and Wireless for the exclusive provision of telecommunications systems and services would be when the Governor in Council specifies. Can the Minister then tell us what the anticipated date is of that termination and the progress on those negotiations with Cable and Wireless?

The Speaker: Honourable Minister for Communication and Information Technology.

Hon. Linford A. Pierson: Mr. Speaker, I believe that I might have given that answer in the substantive answer. The anticipated date is September 2002 for liberalisation and I made a distinction between complete liberalisation and complete competition. I went on to say that we estimate full competition will be in place by July 2004 for the various factors which I mentioned in the answer.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. The Minister also said that as a consequence of the introduction of competition and in the timetable target for the commencement of liberalisation of August 2002, which was now amended to September 2002; they are still working towards that goal. If it is September 2002 that the timetable is set for, certainly, the discussions between Government and Cable and Wireless would have to occur prior to that to be able to say that there is full liberalisation or competition, whatever the case may be. Therefore, my question is: Can the Minister say what is the progress with regard to Cable and Wireless and Government completing those discussions or negotiations prior to September 2002?

The Speaker: Honourable Minister for Information Technology.

Hon. Linford A. Pierson: Mr. Speaker, the negotiations with Cable and Wireless are going well. We are still hoping based on the progress that we are making to meet our deadline, but I must say here that nothing is really cast in stone. We are negotiating and much will depend on the progress of those negotiations.

I can only say that to date, things are going fairly well. I will also remind the House that in addition to the negotiations on the liberalisation of the telecommunication services, we are also conducting an in-depth forensic audit on Cable and Wireless. So, these are also factors that may—and I stress ‘may’, influence the outcome of the liberalisation process as to whether we will be able to meet the deadline that we have set.

However, as it seems now, I believe that it is fair to say that Cable and Wireless is co-operating with the negotiations. I would also say that I would like to see a better level of co-operation but so far, I believe that we are making progress.

The Speaker: If there are no further supplementaries we will move to the next question.

Question No. 34

The Speaker: The First Elected Member for George Town.

No. 34: Mr. D. Kurt Tibbetts asked the Honourable Minister responsible for the Ministry of Planning, Communications, Works and Information Technology, what are Government’s intentions regarding the recently announced electricity rate increase by Caribbean Utilities Co Ltd.

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

Hon. Linford A. Pierson: The position of the Government on this issue is in accordance to a recent

statement I issued to this Honourable House on the 5th June 2002 and I will read again as follows:

“As the Government Minister responsible for electricity supplies, I would like to take this opportunity to respond publicly to the recent press coverage and notification by Caribbean Utilities Company Ltd. that they seek to institute a 3 per cent increase in electricity rates effective 1st August 2002.

With the current state of uncertainty in the global economy and the major issues being faced in our local economy as well including recent unemployment reports, the Cayman Islands Government considers that a rate increase at this time is not reasonable. In financial year 2002, CUC profits were broadly similar to those reported in 2001 at \$19,275,000.00 but the company’s rate of return fell slightly to 11.87 per cent.

I would like to make a couple of observations on these figures. First, the present licence that sets a 15 per cent rate of return was established in 1966. In recent years company profits world-wide have been reduced. In today’s market a 15 per cent return would be regarded as generous. Second, the rate of return to CUC has fallen because the company’s asset base has increased as a result of investment in generation, transmission and distribution capacity. Third, dividends to ordinary shareholders for fiscal year 2002 have increased by 13.2 per cent from 53 cents to 60 cents.

The Government is anxious to assure itself that CUC’s current and future investment plans are equitable for all stakeholders (shareholders, employers, consumers and the Government) and for this reason the Auditor General has been asked to conduct an operational review to address this issue.

Further, it was government’s understanding that last year CUC had agreed to forego any further rate increases until the full allocated cost of service study had been completed, and the Government had had the opportunity to review and consider the results thereof.

The Government is confident that Caribbean Utilities Company Ltd. will continue to fulfil its considerable community obligations as a leading corporate citizen and the exclusive provider of electricity on Grand Cayman and will appreciate the Government position in this regard.”

Mr. Speaker, this was a reproduction of the statement, which I had made in this Honourable House on the 5 June 2002 and which I feel addresses the question that is now being asked.

Supplementaries

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you.

In the very last paragraph of the substantive answer the Minister states that the Government is confident that CUC will continue to fulfil its consider-

able community obligations as a leading corporate citizen and the exclusive provider of electricity on Grand Cayman and will appreciate the Government position in this regard. Can the Minister state if thus far, there have been any talks with CUC regarding what their intentions are further to their announced proposal and if so, can the Minister also state what might be the situation that obtains with the full allocated cost of service study, if it is not completed what is anticipated as its completion date?

The Speaker: Honourable Minister for Communications and Works.

Hon. Linford A. Pierson: Mr. Speaker, on the first part of the question, I can only assume at this point that in the spirit that has been obtained in the past that CUC will continue to co-operate with the Government in these matters, and in accordance with their licence agreement and would not go ahead and impose any increases without the concurrence of Government, which would indeed not be in accordance with the licence agreement.

The second part of the question, as is stated here in the penultimate paragraph of the answer, it states: "Further, it was government's understanding that last year CUC had agreed to forego any further rate increases until the full allocated cost of service study had been completed and the Government had had the opportunity to review and consider the results thereof." In answer to that part of the question, Mr. Speaker, I have not yet received a report on this study and I am still awaiting the study. When we receive the study then we will take action on it, but to date I have not seen a copy of that study.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. The Minister has stated that under the franchise agreement, the Government has to basically agree with any proposed rates for CUC to be able to implement those rates. In the answer he has just given, to paraphrase, I think he said that the Government hopes that CUC would not continue and implement the rate increase bearing in mind that Government considers that it is not reasonable to do so. Can the Minister state for purposes of clarity what is the position that obtains when there is a disagreement with Government and CUC as to whether implementation of a rate increase should take place or not; what is the order of the day which allows for any action to be taken on the part of either side; either Government or CUC?

The Speaker: Honourable Minister for Communications and Works.

Hon. Linford A. Pierson: Mr. Speaker, I do not have the agreement with me here but as my memory

serves there is an arbitration clause in the agreement. I can confirm this for the Honourable Member.

The Speaker: Elected Member for East End.

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

The Minister spoke about the study in the substantive answer in paragraph 4 it says that in today's market a 15 per cent return would be regarded as generous. I am not disagreeing with that statement but I wonder if the Minister could give us an undertaking that while this study is going on that they will also look at what the industry norm is with regards to ceiling profits; if they are in place in the industry because in a previous reply to a supplementary the Minister spoke of taking the 15 per cent off and if they get 15, 20, 10, whatever the case may be, they would just have to satisfy with that. I am wondering if the Minister could give us an undertaking that the study would also include looking at the industry norms to see if a ceiling is placed on profits.

The Speaker: Honourable Minister the Member is asking for an undertaking. I am not sure if you would like to. . .

Honourable Minister for Communications and Works.

Hon. Linford A. Pierson: Mr. Speaker, what Government is trying to obtain is a level playing field within a competitive market and to move away from exclusive licenses where providers have certain monopolies. Even though we are not trying to liberalise the sector, we are saying to CUC that they should no longer in today's market be guaranteed a rate of return on their capitol. That they should work within a competitive environment; a free market environment; and that is precisely what we are trying to achieve. Further than that, I am not able to give any undertaking.

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

Mr. Alden M. McLaughlin, Jr: Thank you Mr. Speaker.

Picking up on the response of the Honourable Minister to the supplementary of the Elected Member for East End, I wonder if the Minister could say whether consideration is being given to doing away with the monopoly situation that CUC currently has in terms of electricity provision. If that is not the case, whether or not consideration is being given to providing, in this new arrangement that is being negotiated or discussed, of placing a cap on the potential amount of return that CUC would be able to make on its investment.

The Speaker: Honourable Minister for Communications and Works.

Hon. Linford A. Pierson: Mr. Speaker, as stated earlier we have a proper review being conducted and an in-depth review being conducted at present by professionals and we will await the result of that review in regards to the second part of the Honourable Member's question in regards to a cap. Whatever obtains in the industry and in a free market economy we would wish to abide by. So, that is really as far as I can go on that. In regards to monopolies there is no intention on government's part as far as I am aware, to move into a situation of attempting to liberalise CUC as a utility company. That is not the intention of Government. We just want to have a level playing field, to have prices that are fair and reasonable. That is what we are seeking to do.

The Speaker: There being no further supplementaries we will move on from Question Time.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received no notice of statements by Members of the Government. Since that is the conclusion of business of the Order Paper I shall ask the Deputy Leader of Government Business for the motion for the adjournment.

ADJOURNMENT

Hon. Linford A. Pierson: Mr. Speaker, I wish to move the adjournment of this Honourable House until tomorrow, Thursday 4 July 2002 at 10 am, and to also mention that it is the intention of the Honourable House to continue our meetings until 6 pm starting on Monday the 8 July, so that we can get through with the business of the House as soon as possible.

The Speaker: The question is that this House do now adjourn until 10am tomorrow, Thursday 4 July 2002.

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

Ayes.

The Speaker: The Ayes have it.

At 1.02 pm the House adjourned until 10 am Thursday, 4 July 2002.

OFFICIAL HANSARD REPORT
THURSDAY
4 JULY 2002
11.15 AM
Eleventh Sitting

[Deputy Speaker in the Chair]

The Speaker: I will invite the Second Elected Member from George Town to grace us with prayers.

PRAYERS

Mr. Alden M. McLaughlin, Jr.: Let us pray.

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

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

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

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

Proceedings resumed at 11.17 am

The Speaker: Please be seated.

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

**Condolences to the family of the late Mr. J. L.
McLean**

The Speaker: I have received notice this morning of the passing of Mr. Joshua Lester McLean, the father of the representative of East End, Mr. Arden McLean. I would like to take this opportunity on behalf of all Honourable Members of this House to express our deepest condolences to the family of Mr. McLean, and to say to them that we will lift them up in our prayers during this time of bereavement.

Apologies

The Speaker: I have received apologies for the absence of Mr. Arden McLean, the Honourable Roy Bodden, and for the Honourable Speaker of the Legislative Assembly who is still sick.

**PRESENTATION OF PAPERS
AND OF REPORTS**

Report on the Inspection of Northward and Fairbanks Prisons on Grand Cayman 25 - 30 March, 2001

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, I would like to lay on the Table of this Honourable House a report on the inspection of Northward and Fairbanks Prisons on Grand Cayman 25 – 30 March 2001.

The Speaker: So ordered.

Would the Honourable Minister wish to speak thereto?

Dr. the Hon. Frank S. McField: Mr. Speaker, I note that Members will find this report interesting, in that, it is a report that was done in March of last year and it was a considerable amount of time after the September riots of 1999. The report highlights issues that this Honourable House has been aware of for a very long time. One of the main issues is the need for us not to forget that Northward and Fairbanks Prisons are a very necessary part of our community.

Mr. Speaker, this goes to say that the Legislative Assembly must be made aware that regardless of the financial restraints placed on the revenues of this country, we must make sure that the Prison is financed to the point where overcrowding will not become the cause of the future disturbances, or where overcrowding will make the actual management of the Prison and the rehabilitation of prisoners impossible.

This report has been done which highlights the job done by the present Director of Prison, Mr. John Forster, and this team who have been able to reconstruct the Prison with very limited funds. So, since this report the suggestion was made that the charge of the Prison should be in the hands of an elected Member, which has occurred and is part of the Report here.

We all know that there are weaknesses in the Prison system and this report highlights some of them. One of the areas that should be noted is that this report does not call for a separate super max facility, unlike the report that was done by the previous Chief Inspector of Prison, Mr. Stephen Tumin.

I would just like to read that particular part of the report which says: **“My Deputy and I have heard frequent mention of the provisions of a separate super max facility for the most dangerous prisoners. In our opinion this is not the best selection for a variety of reasons.**

“Firstly, I believe that existing facilities can be made more secure than they are, which will provide improved facilities.

“Secondly, I do not believe that there are sufficient numbers of prisoners who warrant such expense when available funding would be far better spent in improving the day to day conditions for the majority.

“Finally, I believe that anyone assessed as needing such a measure of security should be transferred to the United Kingdom rather than allow their presence to disrupt the running of the remainder of the Prison”.

Mr. Speaker, I think it is also important that this Inspector of Prisons made mention of the fact that the United Kingdom will have to play a more active role in the prison system by providing funds, human resources and advice in terms of the improvement. I would hope that through the Governor's Office we will, at some point, get some positive response from the United Kingdom. As of now, we have not been able to get any positive response with regards to our concern and that of their Chief Inspector of Prisons.

Mr. Speaker, this report speaks for itself and I hope that Members will acquaint themselves with it.

Report on Alternative Sentencing Methods

The Speaker: The Honourable Second Official Member responsible for Legal Administration.

Hon. David F. Ballantyne: Mr. Speaker, I beg to lay on the Table of the House a report by the Advisory Committee on sentencing entitled Report on Alternatives Sentencing Methods.

The Speaker: So ordered.

Will the Honourable Member wish to speak thereto?

Hon. David F. Ballantyne: Briefly, Mr. Speaker.

By way of background this report was prepared by an Advisory Committee, chaired by the Chief Justice which was reported early in 2001. Among the proposals the most significant appeared to be those for a Drugs Court and those proposals have been moved forward, and are now approaching finalisation by way of draft legislation involving considerable consultation with all relevant parties. That matter was given priority by the Executive Council in June of last year and has been brought forward by way of legislation.

Earlier this year the Executive Council approved the tabling of this report for consideration of the remaining proposals. In relation to these proposals the Solicitor General who was a member of the Advisory Committee has undertaken to consider these proposals with a view to bringing of appropriate further legislation. There are some thirteen recommendations in the report of which the Drugs Court was a very significant recommendation that has been given priority. However, the report has also been circulated and discussed among other stakeholders, and it is considered appropriate that the debate be broadened in order to both inform and enable further decision making regarding this important topic. Thank you.

Cayman Turtle Farm (1983) Limited Financial Statements for the period 31st March, 2001

The Speaker: The Honourable Minister responsible for Tourism, Environment, Development and Commerce.

Hon. W. McKeeva Bush: Mr. Speaker, thank you very much. I beg to lay on the Table of this Honourable House the financial statements of the Cayman Turtle Farm (1983) Limited for the 31 March 2001.

The Speaker: So ordered. Would the Honourable Minister wish to speak thereto?

Hon. W. McKeeva Bush: Thank you, Mr. Speaker.

The audited financial statements of Cayman Turtle Farm (1983) Limited, as tabled in this House today, stands to highlight the Farm's continuing success in its operation as a major tourist attraction and as the Islands only large scale commercial aquaculture facility.

As indicated in the financial statement, the net income of the Farm was \$151,461 for this fiscal year, which was an increase of \$81,128 over the previous year; a total income of \$916,476. The Farm, however, did make a \$234,711 charge against the net income to reflect an increase in the past service pension liability based upon actuarial review conducted as of the 1 January 1999, which has been approved by the previous Board of Directors.

It should also be noted that the Cash on Hand at the end of the year had increased by \$94,000. During this fiscal year over 340,000 people visited the Farm generating \$1.4 million in net trading

income for the retail operation, which includes the tour and retail sections. This operation continues to be the main source of revenue for the Farm and every effort is being made to maximize the per capita spending of the visitor. The food and beverage operation also continue to show a profit, although a small decrease in revenue was seen for this period. The total production of edible products produced by the Farm for this period was 118,000 pounds. The sale of this product generated revenue of \$516,793. The associated expenses relating to this operation was \$1.1 million which resulted in a net trading loss of \$586,704.

The production of the edible product for the residents of these Islands has always been one of the conservation benefits of the Farm's operation. The price of this product has been maintained at a level that permits the majority of the Island's residents to purchase the turtle products.

As Members are aware the Farm's operation was severely disrupted due to the passing of Hurricane Michelle in November 2001. The subsequent action taken by the Ministry, the Board of Directors and with the untiring efforts of the Farm's management has seen this impact reduced to a minimum with the major operations continuing except to the food and beverage facility. There has also been a cut back in the production of the edible products by the Farm in order to the effect of a sustained supply while the Farm rebuilds this programme.

Mr. Speaker, the future for the Cayman's Turtle Farm remains positive with extensive plans for its redevelopment now in its final stage of preparation. I can also say that the contract for the redevelopment has not been finalised as yet, although we are in that process. When that is done I will be holding a press conference to say who the benefactors are of the contract. On the aspect of the redevelopment, just yesterday we received draft of the proposed entire development and the process will be that a power point presentation will be made to the Executive Council when that is done and also to members of the public who wish to be informed about the redevelopment of the Farm.

Thank you very much.

Financial Statements of the Port Authority of the Cayman Islands for the years 1998, 1999 and 2000

The Speaker: Honourable Minister for Tourism and Environment, Development and Commerce.

Hon. W. McKeever Bush: Mr. Speaker, I beg to lay on the Table of this Honourable House the financial statements for the Port Authority of the Cayman Islands as at 31 December 1997/98, 31 December 1998/99 and 31 December 1999/2000.

The Speaker: So ordered.

Would the Honourable Minister wish to speak thereto?

Hon. W. McKeever Bush: Thank you, Mr. Speaker.

The net income as of 1998, 1999 and 2000 is as follows: -

1998—\$2.1 million up 28 per cent from 1997
1999—\$2.5 million up 19 per cent from 1998
2000—\$1.5 million down 40 per cent from 1999

The long-term debt of the Authority stands as follows: -

1998—\$12 million representing 45 per cent of total assets
1999—\$10.8 million representing 38 per cent of total assets
2000—\$9.8 million representing 35 per cent of total assets

Total contribution to the Cayman Islands Government over those years were: -

1998	\$321,000
1999	\$350,000
2000	\$350,000

During 1998 there was a fatality on the dock resulting in an insurance claim. The Port Authority paid \$50,000 on this claim, the amount being the Authority's deductible. During 1998 the decision was made to abandon the permanent mooring project, the much touted and long-talked about project. As a result of this decision \$433,790 was written off. The Port began to look at the expansion of the cargo facilities during 1998 which cost a total of \$628,604. During 1998 the Authority purchased a fourth building for a total cost of \$3.3 million. During 1999 the Authority was approved for a loan facility of \$15 million which is still in place today but has never been used. During 1998 the Authority received settlement of an insurance claim for storm damages to the finger pier in the Cayman Brac dock of \$1.7 million. No capital works took place during 1998/2000.

Cargo tonnage showed mixed results during the three-year period, going from 221,379 tons in 1998 to 235,385 tons in 1999 and 228,286 tons in 2000.

Cruise ship passengers similarly showed mixed results going from 869,441 in 1998 to 1,040,938 in 1999 and 1,340,656 in 2000.

The financial results could not be tabled for the years 1998, 1999 and 2000 until today, as the Auditor General could not sign off on the audit for those years due to his inability to obtain assurance from the previous Government that the contributions made for these years by the Port Authority were sufficient, and that the Government would not be asking for any additional contributions for these years.

The Port Authority is slated for development as I said in a statement to the House on Friday. As the project develops I will keep the House and the public informed.

Thank you very much, Sir.

Annual Report of the National Drug Council 1 July, 2000 – 30 June, 2001

The Speaker: The Honourable Minister responsible for Community Services, Youth and Women's Affairs.

Dr. the Hon. Frank S. McField: Mr. Speaker, I would like to lay on the Table of this Honourable House the Annual Report of the National Drug Council 1 July 2000 – 30 June 2001.

The Speaker: So ordered.

Would the Honourable Minister wish to speak thereto?

Dr. the Hon. Frank S. McField: Mr. Speaker, I would just like to briefly say that the National Drug Council is an autonomous statutory corporation that was established by the National Drug Council Law 2001 Revision. It is coordinating a balanced approach which is needed to reduce both demand and supply of alcohol and drugs in the Cayman Islands. The National Drug Council was previously under the Ministry of Health but when the United Democratic Party took office in November last year, we thought it would be expedient to put it under the Ministry of Community Services. This would allow for even greater coordination and cooperation between the substance abuse services, the National Drug Council, the Prison Services, Probation Services, Social Services and other outreach and preventative services in the community.

Mr. Speaker, this report outlines many of the accomplishments of the National Drug Council and we look forward to hearing comments from Members after they have digested this report. Thank you.

2001 Annual Report of the Central Planning Authority and Development Control Board

The Speaker: The Honourable Minister responsible for Planning, Communication, Works and Information Technology.

Hon. Linford A. Pierson: Mr. Speaker, I beg to lay on the Table of this Honourable House the 2001 Annual Report of the Central Planning Authority and Development Control Board.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

Section 53 of the Development and Planning Law 1999 Revision provides that during the month of March each year the Central Planning Authority submit a report to the Governor in Council for the information of the Legislative Assembly, which contains an account of activities during the 12 months ending on the 31 December of the previous year. In this regard the Minister responsible for Planning I now have the

pleasure of laying that report. The report speaks for itself and while largely a historical account, it does provide valuable information and I am sure will be of use to all Members of this Honourable House.

Some of the highlights of the report include, the appointment of members of the Central Planning Authority and the Development Control Board; appointment of the new Director of Planning; information in the ongoing development plan review; completion of the Wetlands Committee report, the construction aggregate and film material study; the new computer system for tracking planning applications; statistical data as well as the introduction of the Department of Planning's new internet website. For those Honourable Members who have not yet had the opportunity to visit the website they can log on to the website at www.planning.gov.ky.

In closing I would like to take this opportunity to thank the members of the Central Planning Authority and the Development Control Board, as well as the Director of Planning and his entire staff for the work they continue to do to encourage quality, physical development and the sustainable economic growth in the Cayman Islands.

Thank you, Mr. Speaker.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received no notice of any statements.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 3/02

Reduction of Pension Qualifying Period for Fire Officers

The Speaker: The Second Elected Member for Cayman Brac and Little Cayman.

Mr. Lyndon L. Martin: Mr. Speaker, I beg to move Private Members' Motion No. 3/02 Reduction of Pension Qualifying period for Fire Officers.

The Speaker: Is there a Seconder for the Motion?

Mr. Rolston M. Anglin: Mr. Speaker, I beg to second the Motion.

The Speaker: The Motion has been duly moved and seconded. Does the Mover wish to speak thereto?

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

This Motion is one that gives me great pride to bring to this Honourable House. One in which rec-

ognises the high profile that Fire Officers play in our community and the challenges and special circumstances that they face in carrying out the duties of being a member of the Cayman Islands Fire Brigade.

The Motion reads as follows: -

“WHEREAS the normal retirement age under the Public Service Pensions Law is 60 years and fully vested period for pension is 33½ years for full benefits;

“AND WHEREAS firemen and police men are required to maintain a high standard of physical and mental fitness;

“AND WHEREAS the Police Law provides that non-gazetted officers who have served 21 years or reached 55 years may retire on pension without prejudice;

“BE IT RESOLVED THAT the Government considers amending the Fire Brigade Law (1999 Revision) to allow for similar retirement terms and conditions for firemen as those of police officers under the Police Law (1995 Revision)”.

This Motion has been moved in my name and seconded by the Second Elected Member from West Bay. I would like to thank my colleague the Second Elected Member from West Bay for eagerly agreeing to participate in moving this Motion.

Mr. Speaker, I am saddened by the absence of my colleague from Cayman Brac, the First Elected Member, the Honourable Speaker of the Legislative Assembly, because she was also instrumental in collating the views especially from the Firemen, and soliciting views in this Honourable Chamber through a forum of questions and supplementary questions that provide the framework for this very important Motion. I can express that my gratitude to her for the role that she has played.

In setting out the arguments as to why I think this Honourable House should approve and support this Motion, I would like to first take a look at the role that fire officers play, especially in the year 2002 following the tragic events of the 11 September 2001, where the profile for fire officers is at an all time high. Communities throughout the world have recognized the important and dangerous role that they play in the regular duties required under their jobs.

Mr. Speaker, the citizens of New York City have made fire officers world heroes. We too in Cayman can truly appreciate the role that the fire officers play. In 1996 I wrote a letter to the *Caymanian Compass* that was published in September of that year outlining my appreciation, support and admiration for the role that fire officers plays in the communities of Cayman Brac and Little Cayman. That followed me witnessing the fire officers responding to a house fire in the district of Stake Bay and watched as they entered the house under fire, fighting the fire without any fear of their own safety.

The Chief Fire Officer in Cayman Brac, Mr. Larry Bryan, is a good friend of mine. I would like to publicly acknowledge, on behalf of Cayman Brac, Little Cayman – the Cayman Islands on a whole – the

appreciation for the role Mr. Larry Bryan and the Chief Officer of Grand Cayman play in the communities of Cayman Brac and Little Cayman and Grand Cayman. These two individuals have instilled discipline and have lived a life of service to the Fire Brigade of the Cayman Islands.

Many fire officers in my constituency came before me and sat and talked of the challenges that they face entering the fire service at a young age and knowing that the hierarchy—and that is important to understand—of the Fire Brigade of the Cayman Islands are all Caymanian young men; men who enter an organisation that is quite flat. There are many positions at the bottom layer but very few managerial positions. So, their motivation is hampered because there is not a whole lot of scope for them to continue to grow within the organisation. I will elaborate on that point further on.

Mr. Speaker, many of these fire officers, both in Cayman Brac and Little Cayman, and here in Grand Cayman have spoken to me and many other Members of this Honourable House expressing their concerns over being grouped with the traditional civil service. The Public Service Pension Law covers the full array of employees in the public service, from a clerical officer at the National Archives to a fire man who is fighting fire as part of his duty. We can see the difference in array of the duties carried out, yet they are governed under the same pension legislation and the same terms and conditions.

It is acceptable to say that the core civil service can remain active and perform the duties of their office effectively up until the age of 60 and the fulfillment of the 33½ years. However, a fire officer whose life is dependent on his physical and mental ability to carry out the very peculiar and unique job of being a fire fighter, falls more in line with the reasoning given and justification put forward for excluding the police officers from the Public Service Pension Law requirement on retirement age and period to be fully vested. It is my argument that the degree of risk that is inherent in the job of being a fire officer is much more in line with the police officer than it is with the core public servant.

Mr. Speaker, I first highlighted my argument in September of last year (September 2001) in the form of a question brought to this Honourable House—Question 121. The question was asked of the Acting First Official Member responsible for the Portfolio of Internal and External Affairs, and it was, **“What is the normal retirement age for a member of the Royal Cayman Islands Police force and under what authority/law is this stated?”** The supplementaries to this question provided the opportunity to also highlight the need to take a look at the pension retirement age of the fire officers.

My colleague, the First Elected Member from Cayman Brac, at that time (and still is), but she is now the Honourable Speaker, Mrs. Julianna O'Connor Connolly, also asked a question on this in September 2001.

I read from the *Hansard*, with the permission of this House, of 21 September 2001: **“Can the Member say if Government is prepared to look at the other uniformed branches within the service, calculate their risk and see if there is time for another actuarial report to be reported to this House? In order to see if it is deemed necessary for such other persons who are involved in high risk activities to be given the same consideration?”** [2001 *Official Hansard Report*, page 1121]

It was referring to the earlier answer by the Acting First Official Member regarding the same consideration given to the police of having their fully vested period reduced from 33½ to 21 years and the retirement age from 60 to 55.

Madam Speaker, the First Elected Member from Cayman Brac and Little Cayman went on after being asked to be more specific and said: **“A specific example is the Fire service, a similar type of high-risk occupation to that of the Police service. Would consideration be given for early retirement for persons in that particular category of Government?”** [*ibid*]

Mr. Speaker, the Acting First Official Member gave an undertaking that if requested by the Chief Fire Officer he would certainly have no problem in considering this proposal.

The First Elected Member from Cayman Brac went on to say: **“In view of the sterling job our firemen do and what firemen are faced with as borne in New York recently, and with the view that we are in a global village.**

“I wonder, rather than waiting for the Chief Fire Officer to make a request, it would be a better approach if those responsible for the fire service would by way of showing gratitude on behalf of the public of the Cayman Islands, make the first approach and set up a committee, if the Government seeing it prudent and necessary to look into this as a matter of priority.” [*ibid*]

Mr. Speaker, I simply read from this *Hansard* to show that this Motion stems from a concern expressed in this Honourable Legislative Assembly. The Acting First Official Member was made aware that there was an interest to have a look at the possibility of also reducing the pension requirement age of fire officers. On that same day I made a statement in an earlier answer to the Acting First Official Member's reference to the Police force as unique given their risk and the need for physical fitness. The point made by the First Elected Member for Cayman Brac and Little Cayman is that it is not so unique. There is at least the Fire service that sometimes has greater risks and need for physical fitness. A request was made for some commitment by Government to review this but no such commitment has been made. In response to that the Acting First Official Member confirmed his commitment to look into this issue.

Mr. Speaker, the First Official Member outlined that the reason to have the reduced age and reduced period for policemen was in recognition of the

unique nature of their job and the requirement to be physically and mentally fit. The position was put forward that equal recognition is necessary for members of the Fire service. All shift employees are subject to extreme stress and studies have been conducted on the police force in the United Kingdom to show that individuals who are subjected to the stress associated with long shifts, including night shifts, especially within an environment where there is a high degree of risk, there are certain mental and physical illnesses that are prone to these individuals. It was also shown in a study in the United Kingdom that individuals in the police force irrespective of the pension retirement age normally retire on medical grounds after 25 years of service. This was the study in 1992 by the Home Office Police Research Group.

Some of the mental illnesses that are prone to all shift employees but compounded by those who work within an environment with high risk such as the police and fire officers, would include increased irritability and being moody as a result of their job; overly emotional; being snappy caused by other social consequences such as the study showed – marital breakdowns; too sensitive and defensive; contrary behaviour and forgetfulness. For some, the physical symptoms were fatigue and tiredness; loss of energy and sex drive; broken sleep even after the shifts; difficulty in regaining normal sleeping pattern, constipation, stomach problems, headaches, nasal irritation and a greater propensity for illnesses such as colds and flu. By the nature of the job of a fire officer and police officer they have a greater tendency of becoming ill. They have a greater tendency of seeking ways of early retirement on medical grounds. In preparing for this contribution I tried to find different wording but they do become burnt out as fire officers and police officers, after twenty odd years of the long shift work.

In a community such as this, which has an absence of any form of military institution to train and instill discipline and respect for hierarchy, the Police force and the Fire Brigade is an ideal training ground for young men to gain the respect of hierarchy; to get the discipline that know the ranks that were traditionally instilled in our men as sailors on a ship who knew the rules and roles of a captain versus a mess man. If we allow this Motion where after 21 years of service an individual can retire and have his pension secured, it would allow for a second career for these individuals who have now been trained in a disciplined environment to come out and even re-enter school as mature students with the added security of their pension and to embark upon careers that are less financially attractive such as community services; the social sciences and teaching that can only be attractive now once these individuals have already secured their pension.

It is my position that allowing our firemen after embarking on their first career as a fire servant would now be able to enter into entrepreneurial ventures, as they can now take on the risk of businessmen because they have already secured their pension. This is a community that is starving for Caymanian busi-

nessmen to grasp the opportunities available in our community.

Mr. Speaker, the United Kingdom's study that I mentioned earlier also highlighted the propensity for these officers. The study was limited to police officers but I make the argument that the findings can be interchanged with that of a fire officer—once retired could be rehired, or employed in areas such as security firms and in this community security firms are predominantly filled with people of foreign origin. The study went on to show that those individuals after retiring had an opportunity to go back to school and they did.

In speaking to this Motion I must also be cognisant of the fact that our national pension fund currently used for the police pension as well, is one that is faced with many challenges itself. This Motion would add an extra challenge to the pension fund because individuals would come on line earlier. At the time of questioning with the Acting First Official Member, I pointed out in my concluding supplementary that the review as to whether to reduce the pension period for firemen should also include a second component—and I read from the *Hansard*: “. . . **the possibility of the fire service and the police making a small contribution above that of the normal civil servant to their pension fund to ensure that they are paying for the extra benefits and not subsidised by other civil servants.**” [2001 *Official Hansard Report*, page 1122]

It is still my view that in accepting this Motion, the Government could look through the actuarial studies as to what is deemed as an appropriate contribution to be made by these individuals to ensure that the pension fund is properly funded to reflect these changes. I think it is important that all legislators who bring motions of this nature to the Floor understand the spill-over effects that implementation of such a motion would have on other areas of government. I have attempted to do so by looking at the impact on the National Pension Fund and have recognised that although I am anxious to see the implementation of this Motion, and have shared it with those firemen who I have spoken to, that there may be a need for a small contribution above and beyond what is currently being contributed to allow for the National Pension Fund, which they will be reliant upon to receive their benefits; will be properly funded to meet the extra burden that this new retirement age will place upon the pension Fund.

Mr. Speaker, the trend in other countries is to keep the pension fund segregated, that of police and fire officers from your public service pension fund. There are unique circumstances such as the earlier retirement, increased provisions for death benefit and injuries on the job. In all instances where this has been done the contribution required by police and fire officers have been extremely high. It is for that reason that I believe it is important to maintain the status quo of having one national pension fund where we benefit from the volume of one group offsetting another, and

simply to have a supplementary contribution to be made from these individuals that are affected—the non-gazetted police and fire officers.

Mr. Speaker, I believe that this is the most prudent way of ensuring that fire officers requirement and need to be physically fit like that of the police officers, is recognised through bringing the requirements for their retirement in line with that of a police officer.

In closing my contribution I would like to ask all Members of this Honourable Legislative Assembly to support this Motion. I hope that any queries they may have will be brought forward by way of contribution or outside of the Hall. I will endeavour to answer any queries to bring ourselves as a Parliament to a point where we can agree to give recognition to these firemen who have proven that they are capable and willing to serve our community.

I would like to thank the First Official Member for clarifying when I referred earlier to the National Pensions Fund, but what I am referring to is the Public Service Pension Fund, and that is an important distinction, and I thank the Honourable Member.

Mr. Speaker, I remember a conversation recently with the Chief Fire Officer in Cayman Brac who outlined as his officers eagerly and willingly responded to the need of the community during a day of potential flooding from rain. He pointed out that his officers or fire officers in the Cayman Islands are not supermen but they are individuals with special training and willing at all times to deploy that special training to assist the community where ever they could. That was such an important statement to me and I must commend the fire officers for carrying their role beyond that of just fire officers, but also being community workers; raising funds to help with community activities and going out and doing voluntary work.

Mr. Speaker, I will now sit and await the support, either tacitly or verbally expressed by all Members of this Honourable Legislative Assembly.

Thank you, Mr. Speaker.

The Speaker: Thank you.

Due to our late start this morning I am wondering if I can get the agreement of the Members that we bypass the morning break and continue until the lunch break. Is that acceptable with everyone? Since that has been found acceptable, does any other Member wish to speak?

The Second Elected Member from West Bay.

Mr. Rolston M. Anglin: Thank you, Mr. Speaker.

My contribution will be extremely brief. Obviously the Second Elected Member from Cayman Brac and Little Cayman, the Mover of the Motion has clearly outlined the merits of the Motion and so I would seek not to be repetitious.

If this Motion meets acceptance it obviously would require certain work to be carried out. Certainly, one of the primary areas of review will indeed be the cost implications of the Motion, and that is of course the reason for the Motion, specifically asking for Gov-

ernment to consider the Motion. There would have to be a review carried out and the findings be shared with the Members of the House.

Mr. Speaker, here in Cayman we have seen where recently we have allowed for buildings to go up to a 7-storey level, and certainly in that vein it highlights even more the need, in my opinion, to have such a change as is being proposed by this Motion. I think it comes down to very simple analysis, in that, there are those of us who would look at it and say if a house, office building or a condominium complex were to experience a serious fire, would we prefer to have an equally trained 40 year old fire officer coming to the rescue or an equally trained 58 or 60 year old fire officer coming to the rescue. Not to say that there will not be those who would not seek to remain in the service until an older age but providing that opportunity for persons to retire and be fully vested in their pensions at an earlier age, I believe provides an incentive that is important when we consider that question; what would we see as being important from a public safety point of view?

Mr. Speaker, certainly most of us would have seen the front page of the *Caymanian Compass* earlier this week, where there was a serious fire to a relatively small building and we saw the work of fire officers and how important fire officers are in our communities. In Cayman we do not have a history of serious fires and that is a relatively true statement to make, but again, it only takes the one serious fire for certain weaknesses to be highlighted. So, in seconding this Motion I think it is a very important consideration that this Motion will provide the incentive for us to have a younger, fitter fire service and I think that is very important, because at the end of the day the safety of the public cannot and must not be compromised.

As I said earlier, we are now able to see 7-storey buildings in Cayman and with that increase in height alone we see the increased risk in terms of the job of a fire officer, but also the increased risk to the public from the point of view of a fire breaking out on one of those upper floors.

I cannot add much to what the Second Elected Member from Cayman Brac said, but just to briefly wrap up my points; and that is that certainly the cost implications of this will have to be looked at. That is, there would be some fire officers who are currently in the service who may not be up yet to the 33½ years of service but may be beyond the threshold that we are now seeking to have considered for fully vesting (21 years). Some of those fire officers may want to take advantage of an early retirement for whatever reasons and that is a serious consideration and one that the Government would want to use when reporting back to the House.

I look at it from a public safety point of view. Would we rather have as we have now in the police service, a younger, fitter, stronger fire service? I think this Motion puts us on that tract.

I thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak? First Elected Member for George Town, Leader of the Opposition.

Mr. D. Kurt Tibbetts: Thank you, Mr. Speaker.

Certainly, the arguments that have been put forward with the Motion are in their own rights some compelling arguments. Perhaps there is every good reason for one to look at the complement of the Fire service from the point of view that they are not with a job description that is common to most other civil servants, and perhaps comparable to those of the Police officers.

In the Motion itself I read with regards to one of the whereas clauses and I think for the benefit of the Mover especially, we would very much like to be able to say that we are in total agreement with the Motion but there are some questions which come to mind and perhaps the Mover can address those questions in his winding up so that we can be clear as to what the direction is going to be from here on in. The Seconder himself has brought to bear the question of cost and certainly that would have to be a consideration with everyone. Maybe the way the Motion is worded when it asks for government to consider, it simply means that that would be part of the consideration. So, from that respect it is fair for them to look to see what the picture would be like.

When we look at the Motion itself, Mr. Speaker, and we look at the third whereas clause for purposes of clarity, it says, "**AND WHEREAS the police law provides that non-gazetted officers who have served 21 years or reached 55 years may retire on pension without prejudice;**". I think we first of all have to look in the Police Law itself. In section 20(1) of the Police Law it reads, "**Non-gazetted officers who have attained the age of 55 years shall be retired without prejudice to their being accepted for such further period or periods of service as may be fixed by contract**". What this is basically saying is that if you are a non-gazetted officer and my understanding of the definition of a non-gazetted officer in the Police force is someone from the rank of inspector down. This section of the Law is stating that if you are in that category and a non-gazetted officer, you shall retire at 55 years, that is, notwithstanding how many years you have served, whether it is beyond 21 years or below. Of course it also allows that you could be hired back on contract by the powers that be, but certainly it does not mean that you will be hired. That is just a possibility.

So, in looking at that section I think we need to separate the issue of 21 years and reaching 55 years because when it speaks about the 21 years (section 20 (2)) reads: "**A non-gazetted officer who has served for 21 years in the force may retire on pension without prejudice to his being accepted for such further period or periods of service as may be fixed by contract**". It is with the same conditions; that if you have served 21 years you may retire but you may also be rehired. There is no guarantee

and history will prove for those who have reached that age and chosen retirement that not all of them have been rehired. So, there is a difference and it is a notable difference in the two, in that, with 21 years the operative word is 'may' and at age 55 the operative word is 'shall'. I just want to make sure that there is a difference between the two.

The comparisons that we have to make when we look at trying to see that the benefits outweigh everything else in moving the firemen from the regular civil service attachments with pensions, that is, 33½ years of service for full benefits and reaching the age of 60. In the immediate thought one would say that obviously if you can work for 21 years and receive full benefits you must be with an advantage rather than if you have to work 33½ years and have to reach age 60 to be able to receive full benefits, compared to 21 years of service and age 55.

It would seem in the very immediate term, 'Oh yes, why should I wait to reach that age'. There are arguments that have been put forth regarding individuals being able to retire from that sector and with still a reasonable expectancy of life span to be able to take advantage of starting their own business, et cetera. There are also arguments that if we adopt that style within the Fire service we would end up with a younger, more vibrant complement of fire men because of the mandatory 55 instead of 60 being the retirement age. Those are arguments that one would again, just looking at them on the surface say, 'sure that is true'. There is a question there when one looks at it. If you pick up the argument that you will end up with a younger Fire service what that means is you would not expect for them to be rehired after 55 to be on contract. You expect that they would go on to do other things and that is fair based on the arguments that have been put forward.

Now, what I do not know and perhaps some of the firemen have thought about it . . . perhaps it might just simply need looking at. At age 55 with five more years of service (if we are looking at age and not number of years of service) it is the ordinary fireman, because there are only certain levels of upward mobility and certain opportunities within the service of the complement of firemen. If you have a hundred and forty-five firemen and you make the comparison on the pay scale, at least a hundred and ten of them would be compared to what is termed in the police as non-gazetted officers. So, you will find that in the majority of them, in the short term one may say they would reap benefits. However, on the other hand, if the situation that obtains remains with them now, they are literally guaranteed once they are able to perform their functions another five years of useful working time with an income at the level that one would have retired in the other form.

So, there is a balance to be weighed there whether it suits one better, overall though, not individually; the entire picture because whatever is done here would not obtain for some. It would be the situation for all. So, I am just saying that we need to con-

sider that five-year difference whether or not that is a disadvantage or an advantage. Where does it put an individual at that stage in life? Is it expected that a mortgage would be paid off by then or is it expected depending on what age that individual entered into a mortgage by getting a house; how early in life. There are really many questions that one would need to ask and perhaps as most other things in life, it would almost take one to be able to consider each individual situation to be able to really make the judgment call to say what are the benefits.

I will say this much; it seems like a fair number of the firemen would like to have this benefit because there was—and this is no military secret or anything—a letter which was written to the Chief Fire Officer several months ago with an attachment of signatures, requesting that this be looked at in a similar fashion to the situation with the Police. So that we can understand where they were coming from, with your permission I will quickly read the letter, Mr. Speaker. I will not call names . . .

The Speaker: So ordered.

Mr. D. Kurt Tibbetts: Thank you. This letter was addressed to the Chief Fire Officer and it reads:

"Dear Sir,

We are writing to formally request that on our behalf you appeal to the Public Service Pension Board to consider revising the current retirement policy in place for the Cayman Islands Fire Service. We would like them to consider lowering the current service years/age from 33½ service years or 55 years of age to 21 service years or 50 years of age".

I think although they wrote that there is a little discrepancy with what they wrote because the '55' should be '60' and the '21 service years or 50' should be 'or 55 years of age', to be correct.

"Specifically we would like to become eligible for retirement after 21 years of service and we would like for that the mandatory retirement age for field officers be lowered from 55 to 50." So they were actually seeking an earlier age of retirement.

"Additionally, higher service requirements should be considered for those officers who through promotion are no longer required to work in the field. Years of research have suggested that workers in physically demanding jobs like that of a fire fighter and that of a police officer retire earlier than those in less physically demanding jobs." And I believe the Mover alluded to that when he was delivering his arguments.

"There have been many studies that show the job of a fire fighter and the police officer to be among the ten most hazardous jobs in the world." Mr. Speaker, they go on to say:

"Both police officers and fire fighters face unique job hazards. They both put their lives in harms way to protect life and property. Further

studies have shown both fire fighters and police officers are more likely than other workers to die violently so much so that some studies say that the risk of suffering a fatal accident on the job is three times greater than for all other types of jobs. Due to inherent dangers and physical demands the Cayman Islands Police officers have been granted the right to retire after only 21 years of service. Given the physical demands and hazards faced by Cayman Islands Fire Fighters should we not be granted the same option? Think about calling for help with a fire that is ravaging your home, would you feel comfortable having a 55 year old fire fighter report on the scene?"

Just a comment on that, Mr. Speaker, I would think that it would really depend on the person whether he was in physically fit condition or not. I do believe that they have a few there probably approaching that age group who would take exception to the statement coming along those lines.

They go on to say, **"Or would you rather a younger more physically fit individual at your side? We have attached agreement sheets with the names and signatures of fellow fire fighters indicating their agreement with the wishes stated above. For your review and consideration we have also attached information of the hazards and dangers of fire fighting. Complete sources are available upon request for all attachments."**

Mr. Speaker, I believe it was about sixty signatures, which were attached to that letter and which is not quite one half of the complement but pretty close to it. So, almost about half of them seemed at the time to be thinking that this would be more beneficial to them and it was warranted. However, we have some questions that we need to address. Sometimes when you want to ensure that there are benefits to be derived from taking certain positions it is always good to make sure you think the whole situation through.

I mentioned the situation of the 55 and 60. In truth and in fact, when people really got to that age would the majority of them be better off being retired or would they be better off with another five useful working years and at that time begin to collect pension? So, the arguments can be put on both sides of the coin because if you find yourself in a position where you have decent earning power over and above a pension that you are collecting then it works beautiful. The question is: How many of them will be in that position at that time?

We move on to another argument, which I am certain will have to have very serious consideration and I have not had the benefit of having all of the facts before me, but I shall state the facts as I understand them. We speak about pension benefits and if we are to insulate the thought process and speak to all of the pension benefits under a defined benefit scheme then all of those arguments and points are totally salient with regards to defined benefits.

We have to bear in mind that since 1999 everyone who has been hired both in the Police force and

in the Fire service have been hired under the umbrella of a defined contribution scheme. So, the question is: If those people are under a defined contribution scheme, which has no term limit for maturity but simply has its benefits by tenure, as I understand it. If you are 10 years within that scheme; have reached what is lawfully called retirement age and wish to collect retirement then your benefits are simply based on the length of time you have been contributing. If we move to 21 years for defined contribution what do we do then? How does that truly benefit an individual being able to retire after 21 years because the difference that is going to be with that scheme, is that the individual is not going to be able to say that he or she will get the full benefits that the defined benefit scheme would give me after 33½ years.

I think it was from 1999 that was started. All of the people who are employed from then, while it is going to be a while before we speak to them getting to the point of collecting pension benefits; what does it do for them? There seems to me to be a disadvantage, especially if you speak to mandatory, as is now what obtains in the Police Law. So, there is a little problem that we have to think about down the line. As I said, if we leave it for the defined benefit scheme and drop it from 33½ to 21 years that you will receive your full benefits, certainly there must be an advantage to them. However, that is not going to obtain forever. The question is: Do you look to deal just with that and perhaps hope that down the line you are able to address it again? We have to really look at the situation, and those questions are just questions that we need to be looking at to ensure that when it is being considered those are able to be addressed.

Mr. Speaker, do not forget when we speak about costs. If you have a complement of a hundred and forty fire fighters and perhaps one hundred and twenty of them—I do not know this, but I believe it would be safe comment to say that amount would be under the defined benefit scheme—and you move the situation from the regular 33½ down to 21, there is going to be significant cost attached and that has to be determined. I am with understanding that an actuarial study is either being done or something of that nature, which should paint that picture, so we have to look at that. If you wish not address it then you could say well, let that take care of itself. The fact is, at the end of the day the country is going to have to find it.

Mr. Speaker, the most vexing of the issues, which I do not believe that anyone has taken into consideration with the whole affair . . .

The Speaker: Is it now a convenient time to take the luncheon break? We will suspend for lunch until 2.15 pm.

Proceedings suspended at 12.49 pm

Proceedings resumed at 2.45 pm

The Speaker: Please be seated. Proceedings are resumed. The debate on Private Member's Motion No. 3/02 continuing.

The First Elected Member for George Town continuing.

Mr. D. Kurt Tibbetts: Thank you, Mr. Speaker.

When we took the luncheon break I was just beginning to speak about what I thought to be the most vexing of the issues that come to mind with regards to the Private Members' Motion. I had gone through the question of the defined contribution scheme, which definitely raises a question for the future for those employees, not only in the Fire service but those who are in the Police service at present, under the defined contribution scheme and the way it obtains in the Law with regards to the 21 years of service. Under that scheme what will it say for benefits to be derived by the individuals when they get to that length of service and or the age of 55 years of age?

The other point, which I am not sure of, is whether either the firemen or anyone else for that matter has really thought about, and that is a situation which obtains at present. It is my understanding that Police do not receive overtime pay, rather they get what they call time off in lieu. It is also my understanding at present that firemen do get overtime for various reasons: depending on flight schedules. Many times there are flights at odd hours; whenever there is sickness within the various shifts, and depending on how the flight schedules are it is a mandatory that a certain number of them be present on the shift and sometimes that calls for people to work overtime. Also, I am of the understanding that the average overtime on a monthly basis for those fire officers ranges between \$500 and \$700 per month.

So, if we are speaking about the situation that obtains with the Police how do we handle that situation? If we leave them with their overtime benefits we then have to say to the Police, for the same parity, that you will have to give the Police overtime. Or, if you leave the situation as it obtains with the Police now and you shift the Fire service over to them, for parity to remain, then that would have to be taken away from them and they too would simply be with a situation where they would get time off in lieu.

Mr. Speaker, let us look at a time period and let us work on the premise of this average overtime for a fireman; in the run of a year that equates between \$6,000 and \$8,400 and if we look at 21 years that is a fair amount of money. That is bordering between \$120,000 and \$150,000 total of income. So, we need to look at that to see how that would work. I do not believe that any request from the firemen would have borne in mind overtime not continuing, but if we move to the situation with the Police then we have to have some parity existing. Of course, I am not making all of these comments to try to cloud the issue but the way the Motion speaks to considering all of these things that I am saying, I believe have to be taken into consideration.

There is also the thought that I have heard others speak of such as, 'what about the Prison officers'. Perhaps there are other agencies which might involve a certain level of risk during working hours. I do not have to go through a long list of them, but in raising those questions the points are simply drawing towards having to look at all of these factors to see whether it would truly be beneficial to the firemen if we were to move from one situation to the other. As I have said, before, I do not see us being in a position to leave everything else that obtains now with regards to their benefits including overtime, and move them towards this other situation where they seek parity with the benefits that the Police receive, and the Police not being able to get overtime. That, specifically, is perhaps the most difficult of all the points raised that would have to be dealt with, and perhaps the Mover has thought of it and maybe there are some answers. However, when looking at the Motion and understanding the situation that exists presently, those questions, to my mind, definitely need to be answered.

So, perhaps without going into anymore of the possible details, which might come about, I simply raise the points that I have raised to see if there are ways and means of moving forward with the consideration of the Motion to see what would be the best way. I also believe that it is absolutely essential to be able to exact a figure if it is being proposed so that it is clear that Government knows what it is moving forward with and at what cost attached. Certainly, whatever the attached cost is, the Government (any government, central government itself) would have to be in a position to know where the funds are going to be derived from.

So, understanding the full intent of the Motion and what it hopes to achieve, and in agreement with the principle of what it hopes to achieve, perhaps, we can look at the specific issues that arise from it where there may be some stumbling blocks and see how best and if those matters can be resolved.

I look forward to the Mover simply addressing those issues to see what way is the best way forward. Thank you.

The Speaker: Does any other Member wish to speak? The Honourable Minister for Tourism, Leader of Government Business.

Hon. W. McKeever Bush: Thank you very much, Mr. Speaker.

I believe in this matter the Government will take on board the requests of Members given with regards to the various points made. On taking responsibility for the Fire service and paying my first official visit to the Department last year, I was made aware of this request and it was discussed with my Permanent Secretary in the ensuing period.

We are studying the matter with all the various ramifications as the Member who just spoke pointed out. Certainly, we are not going to consider the matter Police versus Firemen or Prison officers, one against

the other. That would be a dangerous precedent to set because this is not an overtime issue; this is a retirement matter. If I remember correctly the Police Law was amended some time ago to deal with the Police in that matter (*pause*). No, I am not dealing with overtime, I am talking about the period of time of retirement. Mr. Speaker, I am not getting into it; I am drawing reference to what the Police Law gives regard to. Perhaps there are persons in the Government who may object to this sort of request, but this Government believes that it is important that we treat the firemen in respect to their retirement qualification as fair as possible, and that is what we hope to achieve. Thank you.

The Speaker: Does any other Member wish to speak? Final call! Does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

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

I would like to thank the First Elected Member from George Town for his contribution and also the Leader of Government Business for accepting this Motion on Government's behalf. The First Elected Member from George Town raised several points that I would like to provide some comment on.

The first one dealt with the age change in the Motion from 60 to 55. It was suggested that we should consider the fact that this mandatory requirement to retire at 55, as called for in the Police Law, section 20(1) for non-gazetted officers who have attained the age of 55, whereas currently the Fire Service retirement age of 60, the individuals would have had five years of productive service that they would not be allowed if this amendment goes through—with the only exception being for those who were rehired.

I would like to point out that in the Motion as it reads rather than saying 'shall retire at age 55' the Motion actually reads 'may'. However, I do accept the fact that saying it is similar to or drawing the comparison with that of the Police Law the conclusion could be derived that it will be a mandatory retirement. I simply point out that retiring at age 55 the individual would be entitled for pension equal to two-thirds of his income, if he is fully vested at that particular time. So, the argument that the individual would have been deprived of five years of service when he could have been earning an income, under this provision he would be earning two-thirds of his income if he is fully vested. So, what he is being deprived of would be the one-third.

The position that I have argued is that the individual is then in a position (if he is physically able and desirous) to either seek re-employment or to seek alternative employment and he would only need employment equal to that of one-third of his income to make himself on par with what he would have been earning over the next five years. I understand the point made, and that is the only rebuttal that I can make. I hope the Member can appreciate from where I bring that point.

The other issue raised by the First Elected Member was a letter from the various firemen. The First Elected Member seems to be very supportive of petitions and this petition from close to half of the firemen would then have to be determined by him as being firemen expressing their desire for action. I appreciate the fact that he read into the records the content of the letter. I also received a copy of such letter and I think it is important that the populace understands that it is something that has been sought after by the fire officers, and (as pointed out by the Leader of Government Business when he made his first official trip) they also solicited his attention. I can certainly say that the fire officers, especially those in my constituency, have petitioned and solicited my attention on this matter and I have given an undertaking that I would voice through this Motion their desire to have this change.

Mr. Speaker, the point made in regard to the correct assessment (that currently the Public Service Pension Law, following an amendment in 1999, provides for a defined contribution) . . . I am aware that there is current dialogue and certain proposals to provide changes to give the option of a defined benefit versus a defined contribution. But that is not relevant to the point that I am about to make.

The Public Service Pension Law provides that the Board of Trustees, under section 17(1) says, **"Participants shall contribute to the Fund at the rate prescribed by regulations and in default of such prescription at the rate of 6 per cent of their pensionable earnings."** So, it gives an option where there can be a prescribed rate of contribution. I have argued in my opening to this Motion that I feel it is necessary for there to be an actuarial review to determine exactly what additional contribution will have to be made by the Police officers who are currently making no additional contribution towards the Fund; that was pointed out by the First Elected Member also. It must be understood that the essence of this Motion is to amend their entitlement. I agree with the First Elected Member that we must not only look at the entitlement but we must also look at funding the pension Fund to ensure that an entitlement will be fulfilled.

There is no issue as to whether this Motion creates an entitlement for the fire officers at the point of their retirement (be it after 21 or 55 years) [they] would be entitled to full benefits. Full benefits are defined in our Pension Law and it is quite clear that what we are talking about is two-thirds of the individual's income. This Motion does not seek to reduce the retirement benefits that would be earned and payable to the fire officers; it seeks to make it equal to what they would have received after the 33½ years as under the current system, or age 60. Now he would receive that full benefit equal to that, but after the 21 years. I have addressed the issue of funding that the difference in the Public Service Pension Fund, through an increased contribution to be made by each fire officer and I included in my argument, police officer, to en-

sure that the Fund is adequately funded to meet these requirements.

I hope that this has made it a little clearer and I appreciate the First Elected Member bringing it out because I would not want that to be an issue of confusion to the public. I would like to repeat for the purpose of emphasis that this Motion seeks to provide equal benefits at the point of retirement after 21 years of service or age 55, as would have been received after 33 $\frac{1}{3}$ years. It is simple!

It is important for us to understand this is not only to capture those who are coming in to the system but would also pertain to those in the system already. The actuarial study would have to review the obligation to fund those that are already in the system and those that are coming in. That would be the purpose of the actuarial review to ensure what contribution is necessary today and onward to meet the requirement based on the profile of those hundred and forty individuals that could be coming on line. So, that is the purpose of the actuarial review.

I can genuinely say that all of the points mentioned by the First Elected Member were valid points and I hope that I have been able to address them. The final point he mentioned that I do not understand how his issue of confusion has come about with the overtime. I am seeking to understand but there is no where in this Motion that seeks to affect an individual's entitlement for overtime. 'Yes', it seeks to bring the benefits of retirement similar to that of a police officer and the Motion was quite clear where it says that the Government considers amending the Fire Brigade Law to allow for similar retirement terms and conditions for firemen. It does not say for any other terms and conditions; simply retirement terms and conditions. So, in no way would it affect a fire officer or a police officer's method of handling overtime, be it time in lieu or as paid overtime, because it is not seeking to change any other terms and conditions of their employment. The reason why we have sought to address this issue through amending the Fire Brigade Law is to ensure that it was not impacting and not having any other effect on other establishments within the public service.

I do take on board the point made by the First Elected Member that there are other uniformed services (shift workers) that could argue the same. It is for that reason, in putting forward my justification for selecting police officers and fire officers, when I emphasised the stress brought about from shift work. I also mentioned that that compounded by the high risk of a fire officer and police officer, and as stated in the letter from the firemen that those two establishments are ranked within the top ten most dangerous employments. It is for that reason only that we selected those two establishments (The Royal Cayman Islands Police and the Fire Brigade).

I hope that I have been able to put to rest any concerns that the First Elected has had on this Motion and I would like to thank him once more for his contri-

bution and to thank all other Members for their tacit support.

Thank you, Mr. Speaker.

The Speaker: The question is that the Government considers amending the Fire Brigade Law (1999 Revision) to allow for a similar retirement terms and conditions for firemen as those of police officers under the Police Law (1995 Revision). All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Private Member's Motion No. 3/02 passed.

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

The Coat of Arms, Flag and National Song (Amendment) Bill 2002

The Speaker: The Bill is deemed to have been read a first time and set down for the Second Reading.

The Traffic (Amendment) Bill 2002

The Speaker: The Bill was deemed to have been read a first time and set down for the Second Reading.

SECOND READINGS

The Coat of Arms, Flag and National Song (Amendment) Bill 2002

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Mr. Speaker, I move the Second Reading of a Bill entitled, The Coat of Arms, Flag and National Song (Amendment) Bill 2002.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. James M. Ryan: Thank you, Mr. Speaker.

The Coat of Arms Flag and National Song (Amendment) Bill 2002, states in the Memorandum of Objects and Reasons that this is intended to amend the Law to enable the making of regulations for the purpose of prescribing fees for the use of Coat of Arms or Flag of the Islands in connection with the business, and the circumstances under which the fees may be abated or waived would also be prescribed.

It is a short amendment and the third Clause states that where there is valid authority use the Coat of Arms or Flag immediately prior to the commencement of the legislation; that authority continues in force from the commencement of the legislation. However, the use of the Coat of Arms or Flag, pursuant to that authority, is subject to the payment of the prescribed fee unless the fee is waived or abated.

Mr. Speaker, the use of the Cayman Islands Coat of Arms or the Flag by any individual or company requires the permission of the Government and the Governor in Executive Council. This has been done on occasions in the past but this will now allow the making of regulations that will prescribe fees for the use of the Coat of Arms or the Flag.

I accordingly look forward to the support of Members of this Honourable House in the passage of this short amendment Bill.

The Speaker: Does any other Member wish to speak? Final call!

Does the First Official Member wish to exercise his right of reply?

Hon. James M. Ryan: Thank you, Mr. Speaker.

I simply want to thank all Honourable Members for their tacit support in this case and look forward to the Bill continuing on in its passage.

The Speaker: The question is that A Bill shortly entitled, The Coat of Arms, Flag and National Song (Amendment) Law 2002 be given a second reading. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Coat of Arms, Flag and National Song (Amendment) Bill 2002 given a Second Reading.

The Traffic (Amendment) Bill 2002

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Thank you, Mr. Speaker.

I move the Second Reading of a Bill entitled, The Bill for a Law to amend The Traffic Law (2001 Revision) and for Incidental and Connected Purposes.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. James M. Ryan: Thank you, Mr. Speaker.

Honourable Members will recall that there was a short amending law passed in this House on the 10 January 2002. This amendment that was passed empowered the Commissioner of Police by notice in the Gazette to approve new radar speedometers used by the police for the purposes of the

Traffic Law, and negated the need for these instruments to be provided for by regulation. When that amendment was done, inadvertently it omitted amending a second section of the Traffic Law, being section 84(4). This short amendment simply is intended to correct that oversight in drafting, which was not caught.

Again, I seek the support of all Honourable Members in doing so. Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak?

Final call! Does any other Member wish to speak?

If no other Member wishes to speak does the Honourable First Official Member wish to exercise his right of reply?

Hon. James M. Ryan: Thank you, Mr. Speaker. This afternoon seems to be a time of real co-operation. Again, I thank all Honourable Members for their tacit support and I commend it to the House.

The Speaker: The question is that a Bill shortly entitled, The Traffic (Amendment) Law 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Traffic (Amendment) Law 2002 given a Second Reading.

The Speaker: The House will go into Committee to consider the Bills.

House in Committee

COMMITTEE ON BILLS

The Chairman: Please be seated. The House is now in Committee. With the leave of the House may I assume that as usual we should authorize the Second Official Member to correct minor errors and such the like in these Bills. Would the Clerk please state the Bill and read the clauses?

The Coat of Arms, Flag and National Song (Amendment) Bill 2002

Clauses 1 to 3

The Clerk:

Clause 1	Short title
Clause 2	Insertion of section 4 in the Coat of Arms, Flag and National Song Law (1998 Revision) – regulations.
Clause 3	Savings and transitional provisions.

The Chairman: The question is that Clauses 1 through 3 stand part of the Bill. If there is no debate I will put the question. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

The Clerk: A Bill for a Law to Amend the Coat of Arms, Flag and National Song Law (1998 Revision) to enable the charging of Fees for the use of the Coat of Arms or Flag in connection with the business and for Incidental and Connected Purposes.

The Chairman: The question is that the Title do stand part of the Bill. If there is no debate I will put the question. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Traffic (Amendment) Bill 2002

Clauses 1 to 2

The Clerk:

Clause 1	Short title
Clause 2	Amendment of section 81 – speed limit of fences.

The Chairman: If there is no debate I will put the question that Clauses 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 2 passed.

The Clerk: A Bill for a Law to Amend the Traffic Law (2001 Revision) and for Incidental and Connected Purposes.

The Chairman: The question is that the Title do stand part of the Bill. If there is no debate I will put the question. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: The question is that the Bills be reported to the House. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it. The House will resume.

Agreed: That the Bills be reported to the House.

House Resumed

The Speaker: Please be seated. Proceedings are resumed.

REPORTS ON BILL

The Coat of Arms, Flag and National Song (Amendment) Bill 2002

The Speaker: The First Official Member.

Hon. James M. Ryan: Mr. Speaker, I have to report that a Bill entitled, The Coat of Arms, Flag and National Song (Amendment) Bill 2002 was considered by a Committee of the whole House and passed without amendment.

The Speaker: The Bill has been duly reported and is set down for Third Reading.

The Traffic (Amendment) Bill 2002

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Mr. Speaker, I have to report that a Bill entitled, The Traffic (Amendment) Bill 2002 was considered by a Committee of the whole House and passed without amendment.

The Speaker: The Bill has been duly reported and is set down for Third Reading.

Since that concludes the business on the Order Paper I am asking if one of the Members could give us a motion for the adjournment.

ADJOURNMENT

Hon. Linford A. Pierson: Mr. Speaker, I beg to move the adjournment of this Honourable House until tomorrow morning at 10 o'clock, Friday 5 July.

The Speaker: The question is that this House do now adjourn until Friday 5 July 2002 at 10 am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 3.31 pm the House adjourned until Friday, 5 July 2002, at 10 am.

OFFICIAL HANSARD REPORT
FRIDAY
5 JULY 2002
10.29AM
Twelfth Sitting

[Deputy Speaker in the Chair]

The Speaker: I shall now invite the Minister for Ministry of Planning, Communications, Works and Information Technology to grace us with prayers.

PRAYERS

Hon. Linford A. Pierson: Let us pray.

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

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

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

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

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

Proceedings resumed at 10.31 am

The Speaker: Please be seated. Proceedings are resumed.

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

Apologies

The Speaker: I have received apologies from the Honourable Speaker who is still not well and from the Elected Member from East End who is absent due to death in the family. I have also received apologies for the late arrival of the Minister of Tourism and the Minister of Education.

**PRESENTATION OF PAPERS
AND OF REPORTS**

Cayman Islands Monetary Authority Annual Report 2001

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to lay on the Table of this Honourable House the Monetary Authority Report for the year 2001.

The Speaker: So ordered. Would the Honourable Third Official Member wish to speak thereto?

Hon. George A. McCarthy: Mr. Speaker, just to offer a few brief remarks.

The year 2001 was a year of change and challenge for the Cayman Islands Monetary Authority. The highlight for the year was the recognition by the Financial Action Task Force (FATF) that the Cayman Islands is compliant with international anti-money laundering standards. This was the landmark achievement for the Cayman Islands and reaffirms the Islands commitment to the international fight against financial crime.

During the year the Monetary Authority continued its strong and productive partnership with the Government and the financial industry, in the enactment and amendment of legislation and the development of sound guidance to the financial services industry on the detection and prevention of money laundering.

A significant contribution to this area was the issue of the guidance notes on the prevention and detection of money laundering in the Cayman Islands. Through the guidance notes consistency across the financial services sector in the interpretation and application of the money laundering regulations have been achieved.

Amendments to the Banks and Trust Companies Law, the Mutual Funds Law, the Insurance Law and the Companies Management Law, all serve to enhance the level of due diligence conducted during the licence application process and to ensure that all applicants meet the fit and proper criteria. As a Mem-

ber of the Ball Committee on banking supervision working group on cross border banking, the Monetary Authority enacted a first amendment to the Banks and Trust Companies Law that required private banks that are not subsidiaries of international banks to have a physical presence in the Cayman Islands. This further demonstrated the Monetary Authority's commitment to international standards of supervision and regulation.

Moving on to the financial statements, which is included in the Report. These were audited by the Auditor General in accordance with the provisions of sections 35 (2) of the Monetary Authority Law 2001 (Revision) and section 41(1) of the Public, Finance and Audit Law 1997 (Revision). The annual financial statements of the Authority as of December 31, 2001 are set out on pages 33 through 44 of the Annual Report. Amongst the financial highlights are total assets of 68.5 million dollars; this includes 67.8 million dollars of currency reserves assets representing investments and current call and fixed deposits. Total liabilities of 54 million dollars include 51.4 million dollars of demand liabilities for currency in circulation that are fully backed by the currency reserve assets as required by section 28 of the Monetary Authority Law 2001 (Revision). It should be noted that the currency reserve assets as at 31 December 2001 represented 132 per cent of the currency in circulation, which is far in excess of the 115 per cent required by Law.

The general reserve currency issue reserve and paid up capital total 14.5 million dollars. This, in accordance with section 6 and 8 of the Monetary Authority Law, the general reserves is maintained at 15 per cent of demand liabilities. Net income for the year was 3.5 million dollars. With respect to movements in the statutory reserves the Board of the Monetary Authority approved the transfer of 400 thousand to the currency issue reserve to provide for future currency reprints and minting of coins. Approval was also given for the transfer of 500 thousand for paid up capital. After satisfying these requirements the Authority was able to exceed the budgeted target by transferring 2.6 million dollars to the general revenue of the Cayman Islands Government.

Mr. Speaker, as Chairman of the Monetary Authority I would like to express my appreciation to fellow Members of the Board and the staff of the Monetary Authority for the stewardship during the year 2001.

QUESTIONS TO HONOURABLE MINISTERS AND OFFICIAL MEMBERS

Question No. 35

The Speaker: The Second Elected Member for George Town.

No 35: Mr. Alden M. McLaughlin, Jr. asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economics, if there are any

international initiatives underway, whether by the European Union, the United Kingdom or any other nation, which seek to obtain information exchange agreement(s) with the Cayman Islands and, if so, please provide details.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, there are 2 principal international initiatives which seek to promote greater information exchange. They are as follows:

The European Union draft Directive on the Taxation of Savings Income.

This initiative is set out in the Feira Accord signed by the leaders of the European Union in 2000. If the draft is adopted, it would require, by no later than 2011, the automatic exchange of information regarding specified savings income earned by the European Union residents within the member countries of the European Union, the Crown Dependencies, the United Kingdom's Caribbean Overseas Territories, the Netherlands Caribbean dependencies, as well as Andorra, Liechtenstein, Monaco, San Marino, Switzerland and the United States.

Mr. Speaker, as currently written, the draft's adoption is contingent on independent countries including the United States and Switzerland implementing similar measures. If the United States and Switzerland do not agree to cooperate, then the draft Directive will not proceed in its current form.

At the request of the United Kingdom, the Cayman Islands is engaged in discussions with them on this subject, with a view to gathering facts which will allow us to determine what is in the best interests of the Cayman Islands. The Government is also actively engaged in consulting regarding the implications of this draft Directive for both the private and public sectors, and the consultations include discussions with representatives of the private sector.

The Organisation of Economic Cooperation and Development (OECD) Initiative

Mr. Speaker, Honourable Members will recall that in May 2000, the Cayman Islands gave a commitment to negotiate bilateral exchange of information arrangements upon the specified terms and conditions of that commitment with any OECD member state that wished to enter into such arrangements with the Cayman Islands. This remains in effect.

Supplementaries

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you Mr. Speaker. I wonder if the Honourable Member can say at what stage these discussions are. I am specifically seeking to ascertain whether or not any agreement in relation to this issue, that is, the European Union Draft Directive, is eminent or is it some years away. Where are we in terms of the discussions?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, as recent as yesterday the Honourable Leader of Government Business chaired a meeting with representatives of the National Advisory Council to discuss this issue.

Discussions at this time are in a relatively early stage. No commitment has been given by the Cayman Islands in this regard. Discussions are taking place and as the Honourable Second Elected Member from George Town will glean from the question itself and the answer, the implications of this for our financial industry will have to be carefully examined before the Cayman Islands can give an indication in terms of which direction it is going to be moving in.

In addition to that this is one that will require such wide consultation and it is one where whatever is being done in regards to these international initiatives must be seen as protecting the interest of our financial industry and not putting it at risk and this assessment will have to be made in regards to this initiative.

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you Mr. Speaker. May I ask the Honourable Member to say whether or not Government has engaged any professional consultants to offer advice and guidance in relation to the negotiations of the European Union Draft Directive on the taxation of savings income?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, the Government has not engaged any consultants. There is a team that is dealing with this and the team is comprised of the Honourable Attorney General, Ministers of Executive Council, including the Financial Secretary in consultation with members of our financial industry. What is proposed at this point and probably this may in part deal with the question that the Honourable Member has just raised: There is a recommendation for a study to be carried out to make an assessment of the impact that such an initiative would have upon our financial industry, but going forward and what is known in regards to this initiative at this point in time, I think, able expertise is in place in order to assess the implications of it and as necessary, if there is a need to bring on board additional expertise or to seek for

the expertise of persons who specialise in this area, that will be done.

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you Mr. Speaker. I wonder if the Honourable Member could say whether or not the secretariat, which had previously existed and was headed by Dr. Christopher Rose is still operational, and whether or not that is offering assistance advice to Government in relation to this specific issue—that is, the European Union Draft Directive on the taxation of savings income.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, The Secretariat still continues to exist and the National Advisory Council created a sub committee chaired by the Financial Secretary to meet with members of the private sector and to have discussions on this. The Report of the subcommittee was submitted to the National Advisory Council yesterday. The recommendations that will be flowing from the National Advisory Council will then be coming to Executive Council.

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. I am very grateful to the Honourable Member for that response but I do not believe that he has answered the question. My question is: Does the secretariat, which had previously been headed by Dr. Christopher Rose still involved with giving advice and carrying out research on behalf and for Government in relation to this specific issue—that is the European Union Draft Directive on the taxation of savings income?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Yes, Mr. Speaker.

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. Just one more question. I wonder if the Honourable Member could say whether or not the Government is engaged in with any OECD member nation in relation to negotiating a bilateral exchange of information arrangement as referred to in his response.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, the Tax Information Exchange Agreement that was signed with the United States of America, that is the first of such agreement to evolve from the OECD commitment and we have recently received request from Mexico and the Government Brazil for mutual legal assistance treaty.

The Speaker: Madam Clerk.

Question No. 36

The Speaker: The Second Elected Member for George Town.

No 36: Mr. Alden M. McLaughlin, Jr. asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economics, how does actual revenue received by the Cayman Islands Government for the period 1 January through 31 May 2002, compare with revenue as projected in the 2002 Estimates of Revenue and Expenditure of the Cayman Islands Government.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: The amounts received by the Cayman Islands Government in respect of its various revenue heads for the period 1 January through 31 May 2002, along with the 'profile' revenue figures for the same five-month period, are as follows:

(Amounts Stated in CI\$ Millions)

	Actual Revenue Received to 31 st May 2002	'Profile' Revenue Expected to 31 st May 2002	Actual Revenue (Less)/More than Profile
Duty	\$42.8	\$49.4	\$(6.6)
Charges	\$12.2	\$10.8	\$ 1.4
Licences	\$40.0	\$42.3	\$(2.3)
Sales	\$ 1.9	\$ 2.1	\$(0.2)
Fees	\$59.1	\$63.9	\$(4.8)
Fines	\$ 0.6	\$ 0.7	\$(0.1)
Services	\$ 0.6	\$ 0.6	\$ 0.0
Rental & Leases	\$ 0.1	\$ 0.2	\$(0.1)
Loans & Interest	\$ 0.4	\$ 0.3	\$ 0.1
Misc.	\$ 0.9	\$ 0.6	\$ 0.3
Contributions	\$ 3.0	\$ 1.4	\$ 1.6
Totals	\$161.6	\$172.3	\$(10.7)

Hon. George A. McCarthy: Mr. Speaker, if you would just permit me to comment on a few of these figures.

In regards to fees there are two areas that should be pointed out that would affect the profile. First of all there should have been an increase in Health Service fees as of the first of April. That had to be delayed for reasons already explained by the Honourable Minister for Health, in this House, because of the impact

that it was having upon the health insurance rate and he has commissioned a study, which I am aware is still under active consideration.

When the Budget was introduced because of the fact that it was later than the billing time for the financial community, a number of them requested extension up through the end of June for the new components of the fees that were added on to the existing fees. In instances where requests were made for an extension for the payment of these fees, those extensions were allowed.

In regards to the contributions, the excess \$1.6 million, I have just pointed out in the Tabling of the Report for the Monetary Authority that the contribution from the Monetary Authority exceeded what was budgeted for hence the \$1.6 million.

Supplementaries

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Based on experience, could the Honourable Member state if given the profile and actual up to May 31 where the actual difference of \$10.7 million is if there is any indication as to what the trend might continue through to year-end?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Yes, Mr. Speaker. There is an indication and the recent information that has been produced by the Treasury suggests that based on the present trend there could be a likely deficit of \$13 million. However, Mr. Speaker, I should point out that there are a number of variables that will have to be taken into account.

First of all, we are into a new era in that developments since September 11 2001, has put us on a new trend line. So, the usual model that was used by the Treasury for forecasting, even in periods of, let us say, slow economic growth, we have to be going on a month by month basis, and this is why profiles are being developed on a monthly basis so that Executive Council is apprised as to the direction of which Government's finances are going.

Upon receiving that Report Executive Council established a committee comprised of the Financial Secretary and Permanent Secretaries and other persons such as the Accountant General and the Assistant Financial Secretary. One meeting of that committee has already been held. There will be a further meeting this afternoon at 3pm that will be chaired by the Financial Secretary. The object is to make recommendations to the Government for us to achieve a break even position at the end of the year at a minimum and what is being sought for by the Government is a surplus of about 3 - 4 million dollars.

What is happening at this time is that Permanent Secretaries, since the meeting on Tuesday afternoon,

would have commenced consultation with the heads of departments and they will be coming back this afternoon to report to the committee. In addition to that, the Accountant General has observed in the Treasury Department, and this has been discussed with me, where some of the revenue items seem to be very much on the conservative side; mainly Customs import duty and there are a few others quite like the stamp duty.

The Deputy Financial Secretary has been asked to get in touch with those Heads of Departments and if needs be, draw on the expertise of other persons within the portfolio to reexamine those projections to make sure what has been submitted is realistically in line with what can be expected. Also what should be bourn in mind is the fact that some of the revenue measures have not yet been implemented and this will be dealt with in a separate question. So, what is happening here is that it is not so much that the revenue measures are underperforming. There are specific reasons as to why this deficit could come about but it is unlikely that this would happen, given the measures that are being pursued by the Government.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. For purposes of clarity then, Mr. Speaker, could the Member state if, in short terms, what he speaks to when he talks about this committee comprising of himself and other senior members of the Civil Service? Is it the goal then to be effecting savings of somewhere between \$16 Million and \$17 million based on what the projected expenditure would have been within the Budget?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Yes, Mr. Speaker, the goal is to at least achieve a break-even position but it would be good to achieve even a small surplus. The reason why this is seen as a realistic prospect when the Budget was prepared last year and Departments were canvassed as to their expenditure needs through the end of the year; when all of that was quantified, looking at the estimates it suggested that there would be a deficit of \$8 million on the year end.

Mr. Speaker, the actual performance up through the end of 2001, the un-audited figures suggests that the actual deficit on the year's activity was \$834,000. It is not that the Departments wanted to be unrealistic as such in their projections because there is full co-operation across the entire spectrum of Government. It is a question of leaning more on the conservative side and Mr. Speaker, in this instance this is what is being sought for. It will be sought for by two approaches: Savings and to see if revenue can be enhanced in those areas where projections have been deemed to be conservative.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. I want to thank the Honourable Member for that answer. Can the Member state again, just so that it is very clear, if the projections, when done, for the possible year end figure of a deficit of \$13 million took into consideration any possible savings at all based on the actual budgeted expenditure or is that based on what the actual figures were in the budget as expenditure?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, that was based on the figures as appearing in the Budget compared to the actual figures encompassing expenditure up through the 31 May. Looking at the actual based on that and comparing it with what had been budgeted, it suggested that there would be a likely savings in the region of about \$4 million.

This is a figure that the entire area will have to be revisited again together, with looking at the revenue side in order to achieve the overall objective that is being sought for.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. So, again, just to be clear what is being looked at is based on the first five months actual figures and looking at what the total projected expenditure was, the goal would then actually be some \$17 million worth of savings and to achieve a surplus of \$3 or \$4 million you would be looking to be saving some \$20 to \$21 million based on projections?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: No, Mr. Speaker, the deficit as I pointed out, based on the profile would suggest that it could be in the region of \$13 million (approximately \$12.8 million). In addition to covering the deficit, further savings are being sought to achieve a surplus of at least \$3 to \$4 million. So, if we were to take it at \$3 million we are looking at \$16.8 million, but Mr. Speaker, the primary objective is to achieve at a minimum, a break-even position and the surplus at least 1 or 2 or 3 million dollars that is being sought for; this is against the backdrop that the Government services being rendered should not be impaired.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Perhaps this might clear it up because I am not quite sure, Mr. Speaker, that my question is very clear to the Member.

What I was trying to solicit as an answer and if I heard the Member correctly, he said that based on

actual expenditure January through May the projected savings from the expenditure proposed in the 2000 Budget would be \$4 million. There is a projected deficit of \$13 million, which in an answer to another supplementary the Member said to me that that projection was based on the savings that was experienced January through May. So, what I was trying to simply determine is that if there is a \$13 million figure that has to be covered by way of savings and it is projected that some savings would occur in any case, then you are actually looking to save from what is projected as your expenditure some \$17 million in order to break even, and if you are looking to achieve a surplus of \$3 million then you are actually looking to save \$20 million. That is what I am asking!

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, it will be much easier for me to restate what was said much earlier.

What I pointed out to you and Honourable Members is that based on the actual expenditure through the end of May, and using that profile and extrapolating through the end of the year, there could be a deficit of \$13 million; this is if nothing at all was done, no intervention.

I pointed out that Executive Council has formed a committee to make recommendations to Executive Council as to what measures should be pursued in order to avert this deficit. In addition to averting the deficit—let us say for example this deficit of \$13,180,000 is covered and in addition to covering what is being sought for, is a small surplus of approximately \$3 to \$4 million. The example that the Honourable Member drew on was in relationship to the year 2001 where I sited an example of taking into account the needs of Departments up through the end of the year. I emphasized that this was based on information gathered when the Budget was being prepared and was within the latter part of the year and when all of those amounts was summed it suggested that expenditure would be at a given value. When we compare what was projected in terms of what is known as the revised figures with the actual or un-audited figure at the end of the year, instead of a deficit of \$8 million it turned out to be a deficit of \$943,000. So, this is what I used as an example to demonstrate that this is a realistic approach that is being taken by the Government.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Mr. Speaker, I will try to conclude as early as I can. There is a little confusion somewhere and I am not suggesting that I am not part and parcel of that. Let me try to go back to it.

Unless I misunderstood the Member in an earlier answer to a supplementary—based on historical data

and a profile that may be prepared given the experiences, as per the example that he just used with the \$8 million projected and the actual un-audited, can the Member state what would be the savings figure that would be projected for this year with no intervention? The Member mentioned earlier on a figure of \$4 million and my understanding was that is what was likely to be saved, or was that what was saved from January to May? If that was the case, can the Member then state the projected savings with no intervention through year end?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, with no intervention the Departments are forecasting that the overall savings for the year would be \$4,731,000.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. So, we have established that. Now with those overall savings there is a projected deficit of \$13 million plus. Is that correct? If that is correct I pose the question again: Based on the figures that are in the Budget in the expenditure column, if there is a projected savings from those figures of \$4 million without any intervention, and the first objective is to bring about a balance at the year end, your actual savings that you will need to find, based on your projected expenditure would be the projected deficit figure plus the amount projected to be saved and if you are looking for a surplus, whatever that amount is, you have to add that on to it too; is that not correct?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, the Honourable First Elected Member for George Town must understand that we are into a rolling up of these figures. What is being suggested here is that we have a profile of January through the end of May and we are doing our extrapolation from January through the end of December.

January through the end of December, what is being suggested here is that the actual expenditure would be in the region of \$326,915,000. This is on the Budget; what is being projected as the revised figures is \$319,570,000. I am just dealing with the expenditure side of it, Mr. Speaker. This gives a net difference of what is being proposed of \$7,346,000.

Mr. Speaker, when we take into account recurrent expenditure; it is suggesting that the actual expenditure through the end of the year will be in the region of \$269,865,000. The revised figures are saying \$265,135,000. So, we have got the difference of \$4.7 million. So, the actual savings that will have to be realised in order to achieve, let us say for example, a

break-even position is \$13,180,000 and if you have got a deficit, which is a negative figure, you have to have a positive figure to offset that to bring you to an zero position, a break-even position. Now if you are looking for an increment or a surplus of \$3 million you have to add that on. So, this takes you up to approximately \$17 million not \$20 million.

Suspension of Standing Order 23(7) and (8)

The Speaker: We have passed the hour of 11 can I have a motion for the suspension of Standing Order 23 (7) and (8) so that question time may continue.

Hon. Linford A. Pierson: Mr. Speaker, I move the suspension of Standing Order 23 (7) and (8) so that question time may continue.

The Speaker: The question is that Standing Order 23 (7) and (8) be suspended to allow question time to continue beyond the hour of 11am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23 (7) and (8) suspended to allow Question Time to continue beyond 11 am.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you Mr. Speaker, I promise this is the final supplementary on this question from me. I believe that I understand what the Member has just said. Somewhere it is deluding me the figure of \$4.7 million.

The fact that it is my last question you will understand that it is going to be fairly lengthy to make sure that the Member understands, Sir. What I need to understand from the Member is this: If in preparing that figure of \$13.7 million as a projected deficit and if the projected savings of \$4.7 million is taken into consideration, when that figure is arrived at it then means that if no savings were realised the projected deficit would be \$13.7 million plus that \$4.7 million. I am trying to determine if that amount has been taken into consideration. If you were to look at what your projected recurrent expenditure was for the year, and you speak to a \$13 million deficit with the \$4.7 being taken into consideration, and looking at what the actual projected expenditure was, to be able to arrive at a balanced position you would have to take into consideration the \$13 million plus the \$4.7 million and add those together as to the savings that would have to be realised, regardless of what you have projected as your savings. I used [as] my base as what your projected expenditure was.

So, at the end of the year if the objective (which is correct, in my view) is to arrive at a balanced posi-

tion, I am asking the Member then, should it not be the \$13 million plus the \$4.7 million you have to have as a goal as actual savings? And if you want to extend the objective further to a surplus position (whatever the amount of that surplus is that you want to achieve) you have to add that to it too. That is what I am trying to find out from him.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I understand the question as it is being posed by the Honourable Member, but I would not necessarily agree with him. I think what is being suggested here would make a manageable situation more difficult.

The Honourable Member is saying that what needs to be done in order to achieve a balancing position is that the \$4.7 million will have to be added on to the projected deficit of \$13,180,000. However, the figure I have outlined is the actual revised expenditure as projected to the end of the year compared to what has been budgeted and my focus has been on the \$13 million that is required. So, based on this, Mr. Speaker, if the \$13 million is a sum that is required in order for the Government to achieve a break-even position, and a surplus of \$3 million is needed on top of that, the savings that is being sought for has to be 16 million dollars.

The Speaker: Third Elected Member for Bodden Town. I shall allow one final supplementary after this.

Mr. Anthony S. Eden: Thank you, Mr. Speaker.

I wonder if the Honourable Third Official Member is yet in a position to say what effect the Health Services Authority (which is to become effective on the 1 July, 2002) would have on the Budget. Have you [taken] this in[to] consideration?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Yes, Mr. Speaker, it has been taken into account. As the Honourable Member was, at one time, the Minister with responsibility for the Hospital, he knows in terms of the transfer and of the authorisation by the Government through the Financial Secretary's office for the Health Services Authority to incur certain expenditures. What is going to happen is instead of an expenditure warrant being issued as would be done previously, a subsidy will now have to be given by the Ministry to the Health Services Authority and a meeting of Finance Committee will be held in order to give this authorisation.

The Speaker: Madam Clerk, since there are no further supplementaries. Question 37.

The Second Elected Member for George Town.

Question No. 37

No 37: Mr. Alden M. McLaughlin, Jr. asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economics, if there are any revenue measures approved in the 2002 Budget, which have not yet been implemented and, if so, what are they.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, as of 28 June 2002, the following measures, along with associated additional revenue amounts stated in the 2002 Budget were not implemented:

Amount of Additional Revenue Stated in the 2002 Budget Expected from Measures	
a) Local Vessel Licences	\$500,000
b) Garbage Fees	\$3,778,140
c) A fee in respect of each company that has registered office address in the Cayman Islands	\$1,500,000
d) Parking Fees	\$1,000,000
e) The remaining 70% increase in Health Services Fees (the amount of \$6,639,874 is 70% of the total \$9,485,534 of additional revenue stated in the 2002 Budget that was expected from increases to Health Services Fees)	\$6,639,874

Supplementaries

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you Mr. Speaker.

Leaving aside item 'e' for which we have already had an explanation, that is, the Health Services fees, I wonder if the Honourable Member could say why it is that these other revenue Measures have not yet been implemented and in doing so if he could give an indication of when it is projected that they will be implemented.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, for local vessel licences regulations are currently being drafted by the Legislative Drafting Unit.

In respect of garbage fees, discussions have taken place, as Honourable Members would have heard previously in this House, with Caribbean Utilities Company (CUC), with a view of using their database. CUC co-operated by providing certain information but this had to be significantly modified by the Environmental Health Unit. This is currently being worked on. In fact, what is thought of to be used through the information that will be provided by CUC is for that information to be reworked and the new measures will not be implemented until 1 January 2003.

In respect of a fee for registered offices, representations were made by the financial industry pointing out that it would create a situation where the Cayman Islands would not be seen as competitive in this particular area and the Government has taken a decision to review that measure.

In respect of parking fees, that in itself carries with it certain difficulties and Executive Council has asked based on the initial recommendations that were put to Executive Council, for this to be re-examined with a view of looking at the short term and long term parking needs, and to see if an appropriate system can be put in place that will deal with both requirements.

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you Mr. Speaker.

May I ask the Honourable Member then whether we can take it that the increase in relation to garbage fees, the fee in respect of registered offices and the projected fee in relation to parking fees, which I believe the three of them total some 6.2 million dollars, will not be implemented during this fiscal year?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Yes, Mr. Speaker.

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Mr. Speaker, the Honourable Member has referred to a number of logistical difficulties in implementing these various fees. May I respectfully ask the Honourable Member whether or not these logistical problems were not envisaged when the Budget was being prepared and these were being proposed as revenue measures to enable a balanced Budget to be presented?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, these were looked into at the time the new measures were being developed, but what must be borne in mind, these measures were just a part of the overall package that was brought to the Honourable House. It was generally felt at that time, for example, that the system (as envisioned) for garbage fee, parking fee and also registered offices were feasible. However, looking in terms of the processes that would have to be implemented in order to operate these revenue measures, is where there would be certain difficulties, not envisioned at that time were encountered.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you.

For the record can the Member state if the amounts which were just discussed in the previous supplementary of \$6.278 million have been borne in mind when the projections have been made, in answer to the question that was just asked before this one.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Yes, Mr. Speaker.

The Speaker: First Elected Member for George Town.

I will allow one further supplementary after this one.

Mr. D. Kurt Tibbetts: Thank you, Sir.

For the remaining 70 per cent increase in the Health Services fees, could the Member state if what portion of this amount is projected to be collected by year-end?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I do not want to run the risk to give misinformation but it is generally understood that the Honourable Minister is looking at introducing that new component around the 1 August, 2002 and if that is done approximately 50 per cent of the increase is expected to be realised.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Mr. Speaker, then it is fair to assume that is the amount which has been taken into consideration when the projected figure was done for the answer to the previous question.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: That is correct Mr. Speaker.

Question No. 38

The Speaker: The First Elected Member for George Town.

No 38: Mr. D. Kurt Tibbetts asked the Honourable Minister responsible for the Ministry Health Services, District Administration and Agriculture, to give an update on the operational restructuring of the Farmers Market.

The Speaker: The Honourable Minister responsible for the Ministry Health Services, District Administration and Agriculture.

Hon. Gilbert A. Mclean: The Cayman Islands Farmers Co-operative Society, the Farmers Market, contin-

ues to actively pursue its objective of reconstructing the organisation to make it more economically viable, self-sustaining and market driven. As part of this process the Board of Directors and Management of the Farmers Market with the assistance of the Government Department of Agriculture is continuing to systematically review, improve and upgrade as necessary all aspects of the Market's operation. The following achievements have resulted from the restructuring so far:-

1. In regard to the Government's loan guarantee, all matters were finalised with the bank and the Market was able to convert approximately \$ 85,000 of its current liabilities into long term debt, to the benefit of the supplying farmers.

2. The installation of a computerised point-of-sale and inventory control system has been completed. The system continues to be more fully integrated into the Market's operations and over the past three months the ordering and invoicing procedures have now been fully computerised.

3. Expansions into the areas of home, garden and agricultural supplies as a source of increased revenue generation have gone better than expected. The Market continues to explore new opportunities in this area both through directly purchasing new product lines and consignment arrangements with other local individuals.

4. The Civil Aviation Authority has agreed in principle to the Co-op's request for a long-term lease for the property on which the Market is located. The specifics of the lease are still to be finalised and discussions are continuing on this matter.

5. Regarding the proposed development of the Market site, construction of stalls, et cetera, the Board of Directors has indicated that considerable progress has been made with the planning for this project over the past few months. Final plans should be ready for submission to the Ministry in the near future. The Board has further indicated that the new plans have gone well beyond the scope of the original concept and they are very excited about the future potential of this project.

6. The Market made considerable strides during the latter half of 2001 in improving its overall financial position and by year-end was able to reduce pre-subsidy losses by 28 per cent, which equated in the region of about \$70,000 over the previous year. This, despite a 5 per cent drop in overall revenues due to a decline in the wholesale part of the business, the Market has been able to continue this trend into 2002, achieving a further 15 per cent reduction in operating losses over the first four months of this year versus the same period in 2001.

One area that has had a significant negative impact on the Market's revenues during this year has been the fall in production of turtle products resulting from the damage sustained by the Turtle Farm last year. Over the period of January to April, this has resulted in some \$97,000 in lost revenue for the

Farmer's Market and a corresponding decline in gross profits amounting to some \$18,000.

Supplementaries

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you.

In number 5 of the substantive answer regarding the proposed development of the Market site and the construction of stalls et cetera, the Honourable Minister has stated that the Board of Directors has indicated considerable progress being made over the past few months, and final plans should be ready for submission to the Ministry in the near future. The Board has also indicated that the new plans have gone well beyond the scope of the original concept and they are very excited. Understanding that the Ministry has not yet seen the final plans but I still would ask the Minister if he is in a position to give an answer and expand on what the expanded plans would entail. I still hold the view that the success of the operation hinges on this development. So, I am just wondering if the Minister could elaborate a little bit.

The Speaker: The Honourable Minister for Agriculture.

Hon. Gilbert A. Mclean: Mr. Speaker, the plans as referred to in part of the question raised by the Honourable Member to the broadening of the concept of putting in a number of stalls and kiosk, which will be rented to individuals on a long term basis to where they would display various goods. On Saturdays it would be like an open market where hopefully with proper advertising and so on, it would become like an activity centre. The thought has been further projected into advertising with cruise ships that they would go to this particular area to shop for handcrafts and preserves and other things which farmers would create something like the Victoria market type of setting. I am sure the Member would know what I am talking about.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. That is indeed good news! The Minister just mentioned the liaison with cruise ships and I am assuming that would be attached to some tours as part of a tour. Can the Minister say whether or not, if in the restructuring plans it is still the intention, and if the commission still stands whereby the farmers co-operation will be able to have a concession stand down at the cruise ship landing when the facilities are upgraded?

The Speaker: The Honourable Minister for Agriculture

Hon. Gilbert A. Mclean: Mr. Speaker, indeed the idea expressed by the Member is something which is included in the plans. The idea is to have something permanently done in that regard, but in the mean time they are actually looking at creating a mobile operation that can be used there now for the purpose of bringing the farming or agriculture to the visitors.

The Speaker: If there are no further Supplementaries we will move on to the next question.

Question No. 39

The Speaker: The First Elected Member for George Town.

No 39: Mr. D. Kurt Tibbetts asked the Honourable Minister responsible for the Ministry Health Services, District Administration and Agriculture to give an update on ongoing efforts to collect past due amounts owed to the Health Services Department.

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. Mclean: Mr. Speaker, over the past ten months the following efforts have been initiated to collect past due amounts owed to the Health Services Department. These initiatives are as follows:

1. In consultation with the Ministry of Health, the Health Services Department employed an experienced, qualified Accounts Receivables Consultant in August 2001. Under the Consultant's supervision a dedicated collection team consisting of 6 members is working exclusively on past due amounts. The local accounts are categorised as self-pay, aged (debts over 120 days) and outstanding amounts incurred by visitors.

Efforts made by members of the collection team working on self-pay accounts include:

- (a) Tracing of local and overseas patient demographic information due to statements of account being returned to sender;
- (b) Contacting patient both at work and home with direct requests to pay;
- (c) Getting appointments to pay or arrange to pay the amount due in instalments if the amount is greater than CI\$500;
- (d) Assisting patients wishing to take out a personal loan or salary advance request from an employer in order to pay debt if greater than CI\$500;

(e) Liaising with companies' benefit administrators in cases of late submission of insurance claims to secure approval for payment wherever possible prior to requesting payment from patient;

(f) Assisting patients with off-shore insurance coverage for reimbursement purposes after patient agrees to pay debt in full;

(g) Liaising with the Medical Health Records Section of the Health Services Department;

(h) Reviewing account reconciliation on aged accounts where disputes regarding payments made at Treasury are in question;

(i) Making an average of 30 telephone calls daily per collections officer with three (3) follow-up letters as appropriate;

(j) Passing to the Treasury Department for action by Treasury Debt Collection Unit all cases where no response is received after repeated telephone calls and three letters are sent.

In addition, Mr. Speaker, members of the collection team have been actively working on the outstanding insurance collections, which have a balance over 120 days. Of note, the most critical delinquent insurance payer has now reconciled with the Health Services their account in its entirety and has agreed to pay \$328,988.55 in outstanding claims. This represents a major accomplishment in addressing debts in the Aged Insurance Accounts category. Each and every insurer account having a balance over 120 days is being reviewed in collaboration with the individual insurer in order to appropriately and effectively identify liability of payment.

Mr. Speaker, we must however, recognise that the more aged the debt, the more time consuming collection of such becomes, as patients have moved, or no longer remember the event, or are deceased in a great many cases.

In cases of deceased persons, follow-up with legal entities in an effort to obtain next of kin information is successfully taking place with a great degree of success related to relatives coming forward to pay off debts ranging from C\$5,000 to C\$40,000 each. We commend the integrity of these individuals in coming forward.

Mr. Speaker, it is to be noted also that visitors accounts left unpaid at the time of departure from the Islands are being collected by credit card payments and by negotiations with third party payers who have agreed to accept liability for the charges.

Tracing of visitors is being carried out by contact with the various foreign Embassies and Consulate Offices globally. These efforts are bringing forth results, some of which are speedier than others due to

the nature of the research and reconciliation efforts involved.

Finally Mr. Speaker, the Health Services Department is positive that a difference is being made in the collection of the aged debt and look forward to receiving more large figure settlements from insurers and account holders once their accounts have been reconciled to each party's satisfaction, resulting in excellence of customer service, new business relationships and fiscal responsibility on both sides.

Supplementaries

The Speaker: The Elected Member for North Side.

Ms. Edna M. Moyle: Thank you, Mr. Speaker.

In 1(e) where it says, liaising with companies' benefit administrators in cases of late submission of insurance claims to secure approval for payment wherever possible, prior to requesting payment from patient, I wonder, just for clarification, if the Honourable Minister can say whether or not the lateness of submission of insurance claims are the fault of the patient or of the Health Services Department. If it is the Health Services Department how can we then request payment from the patient?

The Speaker: Honourable Minister for Health Services.

Hon. Gilbert A. Mclean: Mr. Speaker, in the instances as asked by the Honourable Member from North Side, there were two reasons. In some instances it was the fault of the individuals submitting the claim, for example, they did not sign the form and this caused matters to be held up. There were other instances where they were not submitted in the proper time by the Health Services.

Most of these claims are aged claims and of course, with the vast amounts of claims which are coming in to the Health Services Authority after the coming into effect of the Law, there was not sufficient expertise [should I say] of persons there to carry out what was a major process and that brought certain shortfalls in that regard as well. There was also a hold up in terms of the diagnosis, which appeared on the claims and various such instances, which even now, where registration and claims are improved, still has to be worked out between the Hospital and the insurance companies.

The Speaker: Elected Member for North Side.

Ms. Edna M. Moyle: Thank you. Mr. Speaker, you seem to have a problem recognising which district I am from.

Can the Honourable Minister say what is the recourse of the Health Services Department if a patient gave their insurance at the time of their treatment at the Hospital but the Health Services Department did

not submit the claim, and the patient now refuses to pay?

The Speaker: The Honourable Minister for Health Services.

Hon. Gilbert A. Mclean: Mr. Speaker, in instances where the patient did the correct thing and gave the information on time and it fell to the fault of the Department the management is looking at waiving such collections because it was the fault of the Department. In instances where there may have been deficient information then the patient is being re-contacted for payment of these amounts.

The Speaker: Elected Member for North Side.

Ms. Edna M. Moyle: Last supplement, Mr. Speaker. Thank you.

Would the Honourable Minister say what safeguards have been put in place to insure the patients who are admitted to the Government's health facilities, that insurance forms are signed and properly filled out before those patients leave the hospital?

The Speaker: Honourable Minister for Health Services.

Hon. Gilbert A. Mclean: Mr. Speaker, there have been considerable improvements in the process of registration and in processing of insurance forms and claims, which patients would pay to the hospital. Steps have also been taken to get the master signature of patients on file with the hospital and the files can be with the agreement of the insurance company, and further claims or settlements can be processed by stating on it signature on file. I understand that this is a globally accepted situation where it is agreed between the two entities.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. I think it is fairly obvious from the answer that there have been extensive efforts to normalize this situation.

Can the Minister state if there was, in the proposed 2002 Budget, any amount put in as an amount expected to be collected from past debts as revenue and if the efforts are on target, and perhaps it is projected that by year end those figures will be met or surpassed?

The Speaker: Honourable Minister for Health Services.

Hon. Gilbert A. Mclean: Mr. Speaker, in the Budget there was an amount of approximately \$5 million envisaged as collectable within the past claims of the aged accounts. It is fairly much on track at this time with what has been accomplished and efforts are be-

ing directed towards getting some settlement now with insurance companies over the 120 days of the larger amounts, even if there has to be some give and take in terms of what might be full settlement compared to what might be a reasonable percentage settlement.

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Mr. Speaker, I believe over the course of the last, almost two years now, we have updates on what the overall outstanding sum was due to the Health Services Department in relation to unpaid hospital fees. Many of those amounts are quite ancient and I cannot recall precisely what figure it was the Honourable Minister proffered the last time I asked this question and if I am mistaken he can correct me, but I think it was somewhere in the region of almost \$60 million. I could be wrong with that. However, I wonder if the Honourable Minister could say what efforts are being made to write off sums which are uncollectible because they are either statute barred or simply unable to identify any living being or existing entity from which the sums can possibly be collected so that we can arrive hopefully, shortly at a point where the sums that remain outstanding are collectable and the figure on the books is a realistic figure?

The Speaker: Honourable Minister for Health Services.

[pause]

Hon. Gilbert A. Mclean: Thank you, Mr. Speaker. I was just consulting with persons from management of the Hospital.

The amount, which we are able to identify as a figure at this time amounts to \$44,209,867.74. It is broken down in overseas loans of \$7,166,602.91; overseas advances of \$19,264,349; and local loans of \$17,778,915.83—this brings the total figure to \$44 million.

The Honourable Second Elected Member for George Town asked if any point has been reached in terms of what could be written off. It appears now that in the overseas amounts there is approximately about \$4 million which needs to be written off. It does not appear that there is any way of collecting it and that will be coming to the Finance Committee soon for a request to write that off.

Also there are outstanding amounts such as the amounts related to Caribbean Homes, which is in litigation, but at this time Government via the Legal Department are in discussion to see if this matter can be resolved satisfactorily between itself and the Government. Even if we do get some amounts paid during the rest of the year and certainly into the next, there is still a huge amount of money that is owed and the problem as was identified and stated by the Member,

is that really the records really are not as such quality that one can accurately and with confidence say this is really it. That is why the registration and the whole process is now being held under much stricter control to achieve this.

The Ministry and the Health Services Authority is also looking at the possibility of outsourcing this too for collection by using a collection agency with the hope that something can be done. As for being able to advise this Honourable House accurately as what are the probabilities, I really could not venture there.

The Speaker: Second Elected Member for George Town. I will allow one more supplementary after this one.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. I would ask the Honourable Minister to give serious consideration to that outsourcing exercise because I believe the task is of such magnitude that I doubt seriously whether the Treasury Collection Department would have the means to be able to collect those sums.

The Speaker: Honourable Minister for Health Services.

Hon. Gilbert A. Mclean: Mr. Speaker, I can give that undertaking to the Member because it is true that it is simply so huge that I dare say we would need to have more staff to effectively follow it up as an agency would do. Perhaps the agency does have more techniques and ability in pursuing such action. So, I can give the Member that undertaking.

The Speaker: Madam Clerk, next question.

Question No. 40

The Speaker: The First Elected Member for George Town.

No 40: Mr. D. Kurt Tibbetts asked the Honourable Minister responsible for the Ministry Health Services, District Administration and Agriculture to give an update on the Minister's plans for pursuing aquaculture in the Cayman Islands.

The Speaker: Honourable Minister for Health Services.

Hon. Gilbert A. Mclean: Mr. Speaker, The Ministry of Health Services, District Administration and Agriculture recognises the need for diversification and development in agriculture in the Cayman Islands and is very mindful of the role that aquaculture can play towards this end.

The Ministry has firstly elected to retain the function of the Agricultural Development Committee (ADC) and its Sub-Committees set up by the previous ad-

ministration. The Sub-Committee on Diversification and Aquaculture continues to play a significant role in advising the Ministry thus government on key issues that affect the development of aquaculture in the Cayman Islands. This sub-committee has met nine (9) times and has produced for the Ministry's consideration a Draft Aquaculture Policy. The Draft Policy was returned to the sub-committee with a request to reconsider one of its recommendations.

The Ministry has endorsed a proposal for the training of local personnel at Harbour Branch Oceanic Institution in Florida. Training will commence in September for two staff from the Department of Agriculture, the Senior Fisheries Officer of the Department of Environment and a local pioneer in Tilapia fish rearing. This will strengthen the capacity for undertaking local aquaculture projects.

A small "wet" lab will be established at the Department of Agriculture, which will act as a research and development project for certain aspects of local aquaculture production.

Other activities will be aimed at developing a programme for the introduction of "hi-tech" agriculture, namely, aquaculture and hydroponics in primary and secondary schools. The Department of Agriculture has already had discussions with the Schools' Quincentennial Committee and the Agricultural Society concerning the participation and competition among schools in these "hi-tech" areas at the 2003 Agricultural Show.

Supplementaries

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. While the supplementary does not directly relate to any part of the substantive answer, could the Minister state if any consideration at this point in time is being given to closely examining the possibility of setting up a type of replenishment program for some of the marine species that live in Caymanian waters.

The Speaker: Honourable Minister for Agriculture.

While the Minister is conferring I wonder if the House would be receptive to foregoing the morning break and continuing until the break for lunch.

Hon. Gilbert A. Mclean: Mr. Speaker, the Agriculture Department is working closely with the Department of Environment in consideration of the idea of working to breed species for replenishment in this category, such as conch, which I have had the opportunity of seeing it at the Harbour Branch and how they are successfully doing it. Consideration is also being given to the protection of the present species by the enforcement of Laws and seeing that it is done in a manner that will ensure their protection, but also on the other hand to work towards the replenishment or scientific methods to increasing stocks which are dwindling.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you, Mr. Speaker.

As the Minister has just eluded, I think it is considered to be a fact that the most productive method is the two-prong method, protection and restocking. In the majority of cases history has proven that one without the other usually is not very successful hence, why I ask the question. While I know that it could well take a while with regards to both knowledge and whatever other necessary equipment might be, I would ask the Member to give an undertaking that a part of the program not only lend itself to the entrepreneurial side of it within the thought of diversifying by being able to have some aquaculture in the Cayman Islands, but also to be looking very seriously at having the ability to have that two-prong approach.

At present there is only half of a one-prong approach that is via protection and even that is problematic not only with manpower but with the ability to monitor and everything else. However, if the Member would give that undertaking I think it is really important in the development of a lot of things within the country including the tourism, the environment and everything else and I know that there are members of staff who are attuned to the thought.

So, I am asking the Member if he would give an undertaking along those lines that we could perhaps see some results in that area in the near future.

The Speaker: Honourable Minister for Agriculture.

Hon. Gilbert A. Mclean: Mr. Speaker, I can give that undertaking as stated by the First Elected Member for George Town and I take note of what he has said. I think he is absolutely right in that regard in that it has to be a two-pronged. I can also say to this Honourable House that it will be included in the policy of the draft for the aquaculture policy for the Cayman Islands.

The Speaker: If there is no further supplementaries we will move on to the next order of business.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received no notice of any statements by Members of the Government.

GOVERNMENT BUSINESS

BILLS

FIRST READING

The Development and Planning (Amendment) Bill, 2002

The Speaker: The Bill was deemed to have been read a first time and set down for the Second Reading.

SECOND READING

The Development and Planning (Amendment) Bill, 2002

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Thank you Mr. Speaker.

I am pleased to present the second reading of a Bill for a Law to amend the Development and Planning Law (1999 Revision) to disband the Development's Advisory Board, to increase the functions of the Assistant Directors of Planning to amend the Law relating to appeals and to make provision for related and connected purpose.

The Speaker: The Bill had been duly moved. Does the Mover wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

The overall objective of this amendment is to reduce bureaucracy in the planning process as well as to minimise frivolous appeals that cause unnecessary delays to economic development and hurts in particular the construction sector. This Amendment Bill is particularly important and timely, especially so, during the current economic climate.

Mr. Speaker, the Bill deals with disbanding the Development's Advisory Board, which was created to review hotel, apartment and subdivision projects involving 21 or more rooms; apartments and lots respectively; industrial developments exceeding 10 thousand square feet or for a special purpose developments.

The Development's Advisory Board (DAB) has no decision making role and the Chairman of the DAB is also the Chairman of the Central Planning Authority. It is the view of the Government, including the Central Planning Authority and the Department of Planning, that the role and functions of the Development Advisory Board can and are already adequately dealt with by the Central Planning Authority, and therefore is an unnecessary bureaucratic layer within the planning process.

Another proposed amendment is the delegation of certain functions to two Assistant Directors, which is aimed at increasing efficiency and reducing application delays at the Department level. This is also expected to allow more time for the Director to spend on strategic leadership and management issues within the Department.

There is also a need for clearer notification procedures in relation to planning applications and as such, the Bill provides for procedures, which are more specific and details the categories of persons who

must be notified when submitting planning applications.

In an effort to discourage frivolous appeals against the Central Planning Authority or the Development Control Board, the Amendment Bill also seeks to limit who can appeal planning decisions to those persons who reside or are registered owners of property within 1500 feet of the proposed development.

Filing a planning appeal now costs only \$50 but the Bill seeks to increase this fee to \$500. This is a more realistic figure as appeals cost significantly in terms of the resources at the Ministry, Planning Department and Legal Department, as well as the members of the various statutory Board, including the Central Planning Authority and the Planning Appeals Tribunal who spend a considerable amount of time on these complicated and lengthy issues.

Complimentary regulations are also being drafted and will deal with the issue of notices but they cannot be brought to the Legislative Assembly until the principal Law has been assented to.

I would like to, in advance, thank all Honourable Members of the House for their co-operation in the passage of this Bill and I commend this Bill to the Honourable House. Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Last call, does any other Member wish to speak? If no other Member wishes to speak does the Honourable Minister for Planning wish to exercise his right of reply?

Hon. Linford A. Pierson: Mr. Speaker, just to thank all Honourable Members for their support of this most important Bill. Thank you.

The Speaker: The question is that a Bill shortly entitled the Development and Planning (Amendment) Law 2002 be given a second reading. All those in favour, please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Development and Planning (Amendment) Bill 2002 given a Second Reading.

The Speaker: The House will now go into committee to consider the Bills.

House in Committee at 12.20 pm

COMMITTEE ON BILL

The Chairman: Please be seated. The House is now in Committee. With the leave of the House may I assume that as usual we should authorise the Honourable Second Official Member to correct minor errors

and such the like in these Bills? Would the Clerk please state the Bill and read the clauses.

The Development and Planning (Amendment) Bill, 2002

The Clerk: The Development and Planning (Amendment) Bill, 2002.

- Clause 1 Short title.
- Clause 2 Amendment of section 2 of the Development and Planning Law (1999 Revision). Definition of Development's Advisory Board.
- Clause 3 Amendment of section 5 duties of authority.
- Clause 4 Repeal and replacement of sections 6, 7 and 8. Applications to carry out major developments.

The Chairman: The question is that clauses 1 through 4 do stand part of the Bill. If there is no debate I will now put the question. All those in favour please say Aye. Those against, No. Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 4 passed.

The Clerk:

- Clause 5 Repeal of sections 9, 10 and 11. Development's Advisory Board.
- Clause 6 Amendment of section 16. Provisions for development.
- Clause 7 Amendment of section 18. Application for planning permission.
- Clause 8 Amendment of Section 43. Service of notices.

The Chairman: The question is that clauses 5 through 8 do stand part of the Bill. If there is no debate I will now put the question. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 5 through 8 passed.

The Clerk:

- Clause 9 Amendment of section 44. Powers to require information.
- Clause 10 Amendment of section 51. Appeals against decisions of the authority.
- Clause 11 Amendment of section 52. Appeals against decisions of the Board.
- Clause 12 Repeal of Third Schedule. Constitution of Development's Advisory Board.
- Clause 13 Transitional provisions.

The Chairman: The First Elected Member from George Town.

Mr. D. Kurt Tibbetts: Thank you. Mr. Chairman, just a quick question. I notice in 10, subsection 1(b) (II), and I see it a couple of places where it speaks to 'resides elsewhere in the Islands'. I am not so sure that I am intoned here but I was just wondering if the Minister could explain what that actually means. Does it mean that if someone owns property and does not reside on the Island or elsewhere on the Island, whether that puts a land owner not being able to participate in the process?

The Chairman: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Chairman, so that it can be also clear to the listening public, section 10(1)(b) (II) reads; "**The principal law is amended in section 51 as follows by repealing section 1 and substituting the following section; 1. Any person who is an owner of full legal capacity who resides elsewhere in the Islands and owns any building or land including a strata lot within a radius of 1500 feet of the boundaries of the land to which the application relates.**"

Perhaps Mr. Chairman it might be understood a bit a better if I continue. ". . . **and whose is aggrieved by the decision of the Authority may within 14 days of receipt of notification of such decision or within such longer period as the Tribunal may in any particular case allow for good cause appeal by way of rehearing to the Tribunal against such decision.**"

So, Mr. Chairman, even though the person might not be affected by living within that radius, as long as they own the property they can still appeal to the Tribunal and if they own the property and are living abroad they can still appeal.

The Chairman: If there is no further debate I shall now put the question that clauses 9 through 13 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 9 through 13 passed.

The Clerk: A Bill for a Law to amend the Development and Planning Law (1999 Revision) to disband the Development's Advisory Board, to increase the functions of the Assistant Directors of Planning to amend the Law relating to appeals and to make provision for related and connected matters.

The Chairman: If there is no debate the question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: The question is that the Bill be reported to the House. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: The Bill be reported to the House.

House resumed

REPORT ON BILL

The Development and Planning (Amendment) Bill, 2002

The Speaker: Please be seated.

Reports. The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I have to report that a Bill shortly entitled The Development and Planning (Amendment) Law 2002 was considered by a committee of the whole House and passed without amendments.

The Speaker: The Bill has been duly reported and is set down for a Third Reading.

THIRD READINGS

The Coat of Arms, Flag and National Song (Amendment) Bill, 2002

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Mr. Speaker, I beg to move that a Bill entitled The Coat of Arms, Flag and National Song (Amendment) Bill, 2002 be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled The Coat of Arms, Flag and National Song (Amendment) Law, 2002 be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Coat of Arms, Flag and National Song (Amendment) Bill 2002 given a Third Reading and passed.

The Traffic (Amendment) Bill, 2002

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Mr. Speaker, I beg to move that a Bill entitled The Traffic (Amendment) Bill, 2002 be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled The Traffic (Amendment) Law, 2002 be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Traffic (Amendment) Bill 2002 given a Third Reading and passed.

GOVERNMENT BUSINESS

MOTIONS

GOVERNMENT MOTION NO. 4/02

The Development and Planning (Amendment) (Heights of Buildings) (No.2) Regulations 2002

The Speaker: The Honourable Minister for Planning,

Hon. Linford A. Pierson: Mr. Speaker, I beg to move Government Motion No. 4/02, The Development and Planning (Amendment) (Heights of Buildings) (No.2) Regulations 2002. It reads, Mr. Speaker,

“WHEREAS section 45(1) of the Development and Planning Law (1999 Revision) provides that the Governor in Council may make regulations;

“AND WHEREAS section 45(3) of the said Law provides that no regulations shall be made pursuant to the said Law unless a draft thereof has been laid before the Legislative Assembly and a resolution approving the draft has been passed by the Legislative Assembly;

“BE IT NOW THEREFORE RESOLVED THAT the draft Development and Planning (Amendment) (Heights of Buildings) (No. 2) Regulations 2002, having been laid on the Table of this Honourable House, be hereby approved by the Legislative Assembly in accordance with the provisions of section 45(3) of the Development and Planning Law (1999 Revision).”

The Speaker: The question is that a draft Development and Planning (Amendment) (Heights of Buildings) (No. 2) Regulations 2002, having been laid on the Table of this Honourable House, be hereby approved by the Legislative Assembly in accordance with the provisions of section 45(3) of the Development and Planning Law (1999 Revision). The Motion is open for debate does the Mover wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

This amendment revises the maximum height previously granted for structures in the general commercial No. 1 area known as GC1 and the hotel tourism zone on the seven-mile beach area. The recent amendment to these regulations, which was in March 2002 provides for a maximum height of 80 feet or seven stories, which was changed from 65 feet or 5 stories.

Using simple averages this means that the earlier maximum height per floor was 13 feet, that is, if we use the 65 feet divided by the 5 stories. However, when we divide the 80 feet by the 7 stories the position is now 11 feet and 4 inches instead of the 13 feet.

The Ministry has received representation that with the expected type of development, especially those that are regarded as the cathedral type rooms in these exclusive tourism and financial areas, that the average ceiling height should be maintained at the previous 13 feet level. This is how the new proposed maximum height has been arrived at, namely 91 or 13 feet multiplied by 7 stories, as was the position prior to the March amendment.

To make the point clear, Government does not propose to increase the 7 story limit but simply to allow the same average ceiling height as was the case prior to the March 2002 amendment.

Another very important purpose of this proposed amendment, Mr. Speaker, is to allow certain areas to be designated for affordable or low cost housing. In these cases the Central Planning Authority would have the ability to apply new minimum lot sizes and density requirement, that is, 60 feet by 80 feet or 4,800 square feet, provided that the housing development is part of an approved Government housing scheme.

Currently high-density residential zones are only found in George Town and West Bay districts and this is hampering the provision of affordable housing in other areas. There is considerable support from the districts to address the housing issue for the less economically fortunate of the Islands. This support is evident from the reports of the special issue committees of the review of the Developing Plan 1997 currently on the way.

Mr. Speaker, for clarity on this I would just wish to read a section of the present Development and Planning (Amendment) (Heights of Buildings) Regulations 2002, which is section 2(b) on page 3 of the Development and Planning (Amendment) (Heights

of Buildings) Regulations 2002. Just to give an explanation on the definition that is given herein. Mr. Speaker, with your indulgence I am just seeking to find the section of the Law.

[pause]

Mr. Speaker, the maximum permitted height of a building—and I just wanted to refer to the current Law so that it is quite clear what the situation is: **“2(a) In general commercial zone GC1 is 80 feet or 7 stories, whichever is the less, except that in Grand Cayman the maximum permitted height of any such building shall not exceed the height limitation prescribed by the Director of Civil Aviation within the flight zone pattern at the Owen Robert’s International Airport.”**

The General Commercial 1 or the (GC1) area of George Town is also being slightly enlarged to include several large parcels of property east of Hospital Road, which are poised for development, thus the reason for referring to that section. These changes have been cleared with the Director of Civil Aviation and as such the new heights will not pose a threat to aircraft landing or taking off even if the runway is extended 1000 feet in a westerly direction.

The definition of a semi-detached house is being changed to prevent ambiguity in the interpretation.

Honourable Members should also take note that an update to our building code is also being brought to this Meeting of the Legislative Assembly and in fact, it is on the Order Paper for today. The Building Code is companion legislation to the Planning Law and Regulations and will provide for construction standards for the new allowable building heights.

The GC1 the 7 stories or 91 feet zone has been amended to include areas formally zoned GC2 that fall outside of the 91 feet flight approach building height restriction line. Due to the nature of the restriction line, which does not correspond to parcel boundaries some parcel would carry both the GC1 and GC2 zoning. These include Block 14E, Parcel 316, at the corner of Hospital Road and Smith Road, which would have the GC1 designation over approximately three quarters of the parcel and the GC2 designation on the remainder. Block 14D, Parcel 318, Rem-2 on the west of the CNB Building would be divided equally with the GC1 and GC2 zoning. Block 14D, Parcel 404, would have the GC1 designation applied to approximately one quarter of the parcel with GC2 applying to the remainder.

The amendment affects all those parcels fronting on to the east side of the Hospital Road and some of those parcels on both sides of Elgin Avenue. Some portions of Parcels 14D - 4, 11, 279, 280 and 14C 301, 129 on the North Side of the round-about have been reduced from the GC1 to GC2 due to the height restrictions. Parcels 14D - 281, 282 and 283 have been reduced from GC1 to GC2 in their entirety. Those Parcels now included in the GC1 zone are

those from Mrs. May Winton’s Guest Home to the Cayman National Bank’s location; namely Block 14E-315 and Block 14CJ, Parcels 103, 197, 99, 96, 95, 90, 91, 155, 89, 98, 94, 92, 93, 106 and 107. The amendments will add approximately 12.33 acres to the already existing GC1 zone.

This is a most important amendment, which during the economic slowdown is expected to assist in moving the economy in the right direction and I therefore, Mr. Speaker, commend this Motion to all Honourable Members.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Last call, does any other Member wish to speak? If no other Member wishes to speak does the mover wish to exercise his right of reply?

Hon. Linford A. Pierson: Mr. Speaker, just to express my appreciation to all Honourable Members for their tacit support of this Motion. Thank you.

The Speaker: The question is that the Draft Development and Planning (Amendment) (Heights of Buildings) (No. 2) Regulations 2002, having been laid on the Table of this Honourable House be hereby approved by the Legislative Assembly in accordance with the provisions of section of 45(3) of the Development and Planning Law (1999 Revision). All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Government Motion No. 4/02 passed.

GOVERNMENT MOTION NO. 5/02

The Building Code (Amendment) Regulations 2002

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

I beg to move Government No. 5/02 entitled the Building Code (Amendment) Regulations 2002 which reads as follows:

“WHEREAS section 45(1) of the Development and Planning Law (1999 Revision) provides that the Governor in Council may make regulations;

“AND WHEREAS section 45(3) of the said Law provides that no regulations shall be made pursuant to the said Law unless a draft thereof has been laid before the Legislative Assembly and a resolution approving the draft has been passed by the Legislative Assembly;

“BE IT NOW THEREFORE RESOLVED THAT the draft Building code (Amendment) Regulations 2002, having been laid on the Table of this

Honourable House, be hereby approved by the Legislative Assembly in accordance with the provisions of section 45(3) of the Development and Planning Law (1999 Revision)."

The Speaker: The question is that the Draft Building Code (Amendment) Regulations 2002, having been laid on the Table of this Honourable House, be hereby approved by the Legislative Assembly in accordance with the provisions of section 45(3) of the Development and Planning Law (1999 Revision). The Motion is open for debate does the Member wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

For the Cayman Islands to remain on the cutting edge of the construction industry the Building Code should be updated from the 1994 standard building code to the latest code available. The Cayman Islands Building Code would then be based on the 1999 standard building code with the amendments that take into consideration certain local conditions and practices.

These proposed amendments seek to amend the Development and Planning Law 1998 (Revision), The Building Code Regulations 1998 (Revision), mainly to adopt an updated edition of the Building, Plumbing, Mechanical and Gas Codes. Regulations 3A, 3B, 3C and 3D refer to the 1994 edition of the respective codes and these sections would be amended to reflect the latest edition of the respective code.

The proposed regulation amendment also seeks to provide a new first schedule. The first schedule amends the building code document by removing or amending sections of the Building Code that are in contradiction of other sections of the Law or are not applicable to the Cayman Islands. These amendments were the result of a review of the Building Code by the Building Code Committee that was established by Executive Council to develop a Building Code for the Cayman Islands.

The proposal also seeks to amend section 5 of the regulations to require single-family residencies to comply with the standard for hurricane resistance construction. Section 5 currently exempts single-family residence from the requirements of the Building Code but suggests that the applications be dealt with in accordance with the current practice of the Central Planning Authority. All applications are currently required to meet these standards and this amendment would not place any additional requirements on the industry. It will however specify minimum standards for these types of buildings.

The amendments also accommodate the recent changes in the increases in allowable height of buildings and the number of stories that were made to the Planning Regulation. Again, Mr. Speaker, I commend this Motion to all Honourable Members.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Final Call, does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

Hon. Linford A. Pierson: Thank you, Mr. Speaker, only to thank all Honourable Members for their tacit support to this Motion. Thank you.

The Speaker: The question is that the Draft Building Code (Amendment) Regulations 2002, having been laid on the Table of this Honourable House, be hereby approved by the Legislative Assembly in accordance with the provisions of section 45(3) of the Development and Planning Law (1999 Revision). All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Government Motion No. 5/02 passed.

ADJOURNMENT

The Speaker: Since that brings an end to the Order Paper I shall ask a Member of the Government to move the motion for the adjournment.

Hon. W. McKeeva Bush: Mr. Speaker, Members having agreed to adjourn the House early today, I move the adjournment of this Honourable House until 11.30 am Monday 8 July, 2002 to allow Members to meet informally to discuss a Bill coming before the House. To remind Members, this meeting shall begin at 9.30 to 11.30 am and that should give us chance to complete business at that particular meeting. So, the adjournment is moved until Monday and we propose to sit until 6pm. I so move.

The Speaker: The question is that this Honourable House do now adjourn until 11.30 am 8 July, 2002. Those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 12.55 pm the House adjourned until 11.30 am Monday, 8 July 2002.

OFFICIAL HANSARD REPORT
MONDAY
8 JULY 2002
5.45 PM
Thirteenth Sitting

The Speaker: I will now invite the Third Elected Member for Bodden Town to grace us with Prayers.

PRAYERS

Mr. Anthony S. Eden: Let us pray.

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

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

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

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

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

The Speaker: Please be seated. Proceedings are resumed.

Proceedings resumed at 5.48 pm

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

The Speaker: I have received no notice of any statements for today.

ADJOURNMENT

The Speaker: There will be no other business that is to be conducted today. I call on the Honourable Leader of Government Business for a motion for the adjournment.

Hon. W. McKeeva Bush: Before I do that, Madam Speaker, I should say for the record that the meeting that was announced on Friday for today took a very long time to complete. From there we moved into Finance Committee, as urgent matters had to be dealt with and, therefore, we could not come back to the House.

I suggest, Madam Speaker, that we do look at this practice of simply calling the House to adjourn because I know while we have practices, for this aspect of business there is no Standing Order to guide us. I think once we have to suspend business it leaves Government to alert staff, the media and Members as to whether we are coming back or not.

So, Madam Speaker, with that explanation, I move the adjournment of this Honourable House until Wednesday, 10 July 2002, at 10 am.

The Speaker: The question is that the House do now adjourn until Wednesday, 10 July at 10 am. All those in favour please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

At 5.50 pm the House stood adjourned until 10 am Wednesday, 10 July 2002.

OFFICIAL HANSARD REPORT
WEDNESDAY
10 JULY 2002
11.07AM
Fourteenth Sitting

The Speaker: I shall now invite the Third Elected Member for West Bay to grace us with prayers.

PRAYERS

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

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

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

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

Proceedings resumed at 11.10 am

The Speaker: Please be seated. Proceedings are resumed.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

Oath of Allegiance
Mr. A. Joel Walton

The Speaker: I will now call on Mr. Joel Walton to come to the Clerk's desk.

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

The Speaker: On behalf of this Honourable House I welcome the Honourable Temporary Third Official Member and invite him to take his seat.
Please be seated.

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

Apologies

The Speaker: I have received apologies for the late attendance of the Honourable Second Official Member.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**Wetlands Committee Final Report on the Proposed
Environmental Overlay Zones**

The Speaker: The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

Hon. Linford A. Pierson: Madam Speaker, I beg to lay on the Table of this Honourable House the Wetlands Committee Final Report on the Proposed Environmental Overlay Zones.

The Speaker: So ordered. Would the Minister wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Madam Speaker.

The Wetlands Committee is a sub-committee of the Central Planning Authority that was established in late 2000. The Committee was chaired by Mr. Athlee Bodden who is also a member of the Central Planning Authority. Representation was from a wide cross section of stakeholders, including developers, landowners and the Department of Environment.

The Wetlands Committee was established to review the two environmental overlay zones, which were proposed amendments to the 1997 Development Plan, namely Environmentally Sensitive and Environmentally Protected.

As Members of the Honourable House recall there was much public debate over these proposals.

The Wetlands Committee submitted their comprehensive Report in November 2001 and the Central Planning Authority in their meeting dated 6 February 2002, resolved to endorse the recommendation contained therein and to forward the Report to the Development Plan Review Committee for inclusion in their ongoing review of the 1997 Development Plan.

The Wetlands Committee Report includes a short executive summary however, Madam Speaker, the following are the key recommendations for the information of this Honourable House.

- a) The proposed Environmentally Sensitive (ES) Zone be removed from further consideration;
- b) The proposed Environmentally Protected (EP) zone be applied only to Government and National Trust owned parcels with the area previously proposed for EP or ES zoning;
- c) The proposed EP zone not be applied to privately owned lands.
- d) Designate privately owned land in the Central Mangrove Wetland and land proposed for the EP zone as lands recommended for acquisition at fair market price and that the designation would not change development potential;
- e) Suggested sources of funding for acquisition under d) above; including proportion of the Environmental Protection Fee;
- f) The Environmental Protection Fee Fund (EPFF) should be prudently managed and used to fund environmental projects such as studies, protection and maintenance of environmental areas, acquisition of environmentally significant land and preservation of the underwater environment;
- g) Designate the outer half of the Central Mangrove Wetland and other parcels that had been proposed for ES zoning, as a "Special Planning Area", that allows environmentally friendly development at existing densities;
- h) Develop an environmental education programme;
- i) Initiate a wise use study of the Central Mangrove Wetland and Water Lens using funds from the Environmental Protection Fee Fund;
- j) Further study and investigate various tools and options for possible implementation in Cayman, e.g. fee incentives and off-site mitigation.

The Central Planning Authority and the Department of Planning have requested that the Final Report of

the Wetlands Committee now be made public in its entirety. Honourable Members are advised that the Executive Summary had earlier been posted on the Department of Planning Website as well as published in a press release.

Madam Speaker, in closing I would like to take this opportunity to thank the many persons who served on the Wetlands Committee for their interest, dedication and hard work in preparing the Final Report on the Proposed Environmental Overlay Zones. In addition I would like to thank the staff of the Department of Planning, the Members of the Central Planning Authority and the Development Plan Review Committee who will now consider the Report as part of the ongoing review process. I now look forward to receipt of the Report of Survey in the near future and being in a position to bring this important matter to the Executive Council and ultimately to the Legislative Assembly of the Cayman Islands for due consideration.

Thank you Madam Speaker.

The Speaker: Thank you Honourable Minister.

Royal Cayman Islands Police Inspection January /February 2002

The Speaker: The Honourable First Official Member responsible for Internal and External Affairs.

Hon. James M. Ryan: Thank you, Madam Speaker. I beg to lay on the Table of this Honourable House the Report on the Royal Cayman Islands Police Service Inspection that was carried in January/February 2002.

The Speaker: So ordered.
Would the Honourable First Official Member wish to speak thereto?

Hon. James M. Ryan: Thank you, Madam Speaker. My comments on the report will be brief. I will simply just touch on one or two points because the report will be a public document.

In the executive summary it says that the inspection of the Royal Cayman Islands Police was conducted between the 28 January and 1 February 2001 by Mr. Dan Crompton CBE, QPM, CIMgt, Her Majesty's Inspector of Constabularies, assisted by Jeff Brede-mear, FCO/DFID Police adviser.

The RCIP was last inspected during April 1996 and inspections are not done on an annual basis. This inspection is carried out by Her Majesty's Inspector of Constabularies and it is done closer to every 10 years, but in fact, it has not been quite 10 years since the last Report was carried out.

The report is in general a good one and on page 21 the report says: "**Her Majesty's Inspector was particularly impressed with the smartness of the RCIP officers he met during the inspection. This is an indicator of personal pride and discipline. He was also impressed with their openness and frank-**

ness displayed during discussions which he considers reflected the positive and inclusive style of management and the good relationship between headquarters and other parts of the force.”

He goes on to say: “Overall Her Majesty’s Inspector considered that despite the pressures and tensions created by increasing demand and conflicting priorities the RCIPS is performing well. He was particularly impressed with the smartness and ‘public service’ focus of staff and considers the force compared very favorably to other forces in the Caribbean. He also noted that the RCIPS has a depth of talented officers not found in many of the other Caribbean Overseas Territories (COT) police forces.”

I thank you, Madam Speaker.

The Speaker: Thank you, Honourable Member.

Cayman Islands Government Strategic Policy Statement for the six month financial year ending 30 June 2003

The Speaker: The Honourable Third Official Member responsible for Finance and Economics.

Hon. A. Joel Walton: Thank you, Madam Speaker.

I rise to lay on the Table of this Honourable House a document entitled the Cayman Islands Government Strategic Policy Statement for the six month financial year ending 30 June 2003.

The Speaker: So ordered.

Would the Honourable Member wish to speak?

Hon. A. Joel Walton: Yes, Madam Speaker.

The Speaker: Please proceed.

Hon. A. Joel Walton: Thank you, Madam Speaker.

The preparation of a strategic policy statement is part of the Financial Management initiative or (FMI) and is a requirement of the Public Management and Finance Law 2001. The publication of this first strategic policy statement is a milestone in this initiative and the Government is therefore delighted to Table this document in the House for the very first time.

The purpose of a Strategic Policy Statement is to outline the Government’s strategic policy priorities for the next financial year, which in this case is the 2003 half financial year. The statement will contribute to an improvement in Government’s financial management by providing a greater strategic focus for budget decision-making. It does this by establishing in a three-year medium term context the policy, economic and financial parameters on which the

2003 Budget will be based and subsequent budgets from that point onwards.

To achieve these objectives the statement is deliberately strategic and high level in nature. The timing of this preparation is also several months before the detailed for the 2003 financial year, which will be brought to this House. So, we have the lag between when we lay the statement and when you actually see the Budget that operationalises the statement.

The 2003 (Half) Transitional Financial Year

The first strategic policy statement is for a unique 6 month financial year, called the 2003 half financial year. This 6 month period from 1 January 2003 to 30 June 2003 is a transitional financial year to allow the Government’s balance date to move from 31 December to 30 June. Thereafter the Government’s financial year will be for the 12 month periods from 1 July to 30 June each year.

As a consequence all the financial forecasts and targets for the 2003 (Half) Financial Year are only for a six month period. This means that they are not directly comparable with the 12 month periods which precede or follow it. In addition, giving the seasonal nature of the Government’s revenue and expenditure flows this means that revenue and expenditure for the 2003 (Half) Year is not equal to half of a normal 12 month year.

Madame Speaker, great care should therefore be taken in making inter-year comparisons between 2002 and 2003 because of these two unique situations.

The Strategic Policy Statement comprises of six sections:

Section 1 provides a brief explanatory introduction.

Section 2 outlines the Government’s outcome goals and strategic priorities over the next three years. These goals, which are set at a relatively broad level, establish the policy direction for government agencies over the period. They will be used by the Government to determine specific policy priorities for the Budget. Policy priorities, however, cannot be set in isolation from their economic and financial implications.

Section 3 therefore contains an overview of the expected medium term economic position. This has been prepared by the Economic Research Unit of the Portfolio of Finance and Economics.

Section 4 provides a set of aggregate broad level financial targets for the Central Government Sector for the 2003 (Half) financial year and the subsequent two full financial years, being 2003 to 2004 and 2004 to 2005.

The targets have been developed on the basis of the economic forecasts; the financial performance of the Government for the year to date, financial forecasts for the three-year budget horizon, the Principles of Responsible Financial Management contained in the Public Management and Finance Law 2001, and the Gov-

ernment's fiscal policy objectives as reflected in the agreed Medium-Term Financial Strategy (MTFS).

Section 5 sets out the Budget Parameters for 2003 year including the indicative allocations to each Ministry and Portfolio. These allocations are to be used as the basis for Ministers or Official Members and Ministries or Portfolios to establish their outputs and detailed budgets for the 2003 Year.

Section 6 provides a conclusion.

Overview of Section 2: Outcome Goals

At this point, Madam Speaker, I would like to comment a bit more in-depth being that it is a major milestone for Government on the sections. I will do my best to move through as quickly as I can.

In section 2 of the document the outcomes are the states of well being of all people living in the Cayman Islands. It has been developed on that basis.

Despite our wishes to the contrary, the Government's resources are limited and so we are unable to tackle all things at once. We therefore have to choose our outcome goals carefully, prioritise on the basis of the best economic and social gain that can be achieved for the resources committed.

The Government has established seven overarching outcome goals for the 2003 to 2004/5 period. These are as follows:

1. A strong economy that generates employment, income and a high standard of living.
2. A healthy and socially protected resident population.
3. A strong Caymanian community and culture.
4. Protect the environment for the use by both current and future generations.
5. A well educated and vocationally trained resident population.
6. A safe and secure country for residents and visitors alike.
7. Citizen participation in democratic government.

These goals are interrelated in that the achievement of one will influence the achievement of another.

The Government recognises that while it can play a major part in achieving these broad goals, at the end of the day it does not totally control them. Events outside the Cayman Islands and actions of individual citizens, et cetera, can also have a significant outcome overall on the achievement of these goals.

Section 3 Economic Overview

The key points in section 3 relate to the forecasts for the key macroeconomic indicators for the Cayman Islands. They show that economic growth is expected to be 1.9 per cent in 2001, 2.8 per cent in 2003 and then average about 3 per cent during 2004 and 2005.

Section 4 Aggregate Financial Targets

Section 4 aggregate financial targets are as follows:

For the 2003 we have targeted:-

- operating revenue \$188.8 million;
- operating expenditure \$144.5 million;
- operating surplus \$44.3 million;
- asset and borrowing activity \$18.2 and;
- the overall surplus \$26.1 million.

For the year 2003 this relatively large overall surplus target relates back to it being a 6 month year. As an average, approximately 65 per cent of revenues will be collected in the first half year. The overall surplus targets for the next two full years are not of that magnitude but are about \$0.23 million and \$0.27 million in the proceeding years 2003/2004 and 2004/2005. These are much more indicative of a normal financial year as history to date has shown.

The aggregate targets are based on the following 5 main strategies and these strategies are important because they underpin the entire targets that have been established.

1. No new borrowing;
2. Making the required annual payments to ensure that all Government borrowing commitments are met;
3. Limiting capital expenditure to levels that can be financed by operating surpluses;
4. Generating operating surpluses;
5. Building reserves by leaving existing reserves untouched, and committing to allocate any un-forecast or unexpected revenue to reserves in addition.

The aggregate targets ensure that both an operating surplus and an overall surplus are achieved in each of the three forecast years.

As I have already indicated, the targets for the 2003 (Half) Financial Year results in large recurrent and overall surpluses for that year. This results from the uneven distribution of revenue and expenditure across the calendar year. The targets "save" rather than spend this surplus so that it can finance the cash flows for the first half of the following financial year being 2003 to 2004. Eventually this surplus will be able to be put into reserves, something that is also needed to comply with the reserves requirements of the Public Management and Finance Law 2001.

The aggregate targets result in two very positive fiscal indicators: The first is a reduction in Government expenditure when measured as a proportion of GDP, reducing from 24 per cent to 20 per cent between 2001 and 2004/2005, which is an important initiative. We have been speaking about reducing expenditure and this statement and its approach to budgeting reflects that commitment and puts it in harder numbers.

The second indicator is that the Government moving from being a net borrower to becoming a net repayer of public debt.

In the final section, Madam Speaker, section 6, I just need to make one quick minor amendment to it, but significant in its interpretation. On page 31 of the document, please permit me to read this into the record. The section starts by saying: "**The financial targets for 2003 (Half) Financial Year are based on a five pronged financial strategy.**" The second bullet point, which now reads: "**Beginning to repay existing borrowings;**" should now read: "**Continuing to repay existing borrowings;**", which is important. Thank you Madam Speaker.

In concluding my comments on this paper, this statement that the Government has brought to the House today sets out the policy and financial parameters established by the Government for the 2003 (Half) Budget. These are designed to advance the economic and social performance of the Cayman Islands.

The Government's goal is to build a secure, prosperous Cayman Islands that can be a proud legacy for our children and grandchildren. An important strategy to achieve that goal is to promote a vibrant, growing economy that provides opportunities for all. The Budget parameters outlined in this document will help to do just that. They are fiscally responsible and allow the Government's key policy priorities to be advanced.

The Government is also committed to open communication and transparency. The publication of this first Strategic Policy Statement is a clear example of this commitment.

Finally, Madam Speaker, I would like to take this opportunity to thank all those persons who have contributed, supported, and in many ways guided the production of this document and the achievement of this most important milestone in the Financial Management Initiative. Thank you, Madam Speaker.

The Speaker: Thank you Honourable Member.

**Report of the Standing Business Committee
State Opening and First Meeting of the 2002
Session of the Legislative Assembly**

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, I beg to lay on the Honourable Table of this Honourable House the Report of the Standing Business Committee of the State Opening and First Meeting of the 2002 Session of the Legislative Assembly.

The Speaker: So ordered.

Does the Honourable Leader wish to speak thereto?

Hon. W. McKeeva Bush: No Madam Speaker.

The Speaker: Thank you.

**QUESTIONS TO HONOURABLE
MINISTERS AND MEMBERS**

Suspension of Standing Order 23(7) and (8)

The Speaker: May I ask a Member to move the suspension of Standing Order 23(7) and (8)?

Hon. W. McKeeva Bush: Madam Speaker, I so move the suspension of the relevant Standing Order.

The Speaker: Thank you. The question is that Standing Order 23(7) and (8) be duly suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended in order for Question Time to be taken beyond 11:00 am.

Question No. 41

The Speaker: The Second Elected Member for George Town.

No 41: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for Community Services, Women Affairs, Youth and Sports if the security measures at Northward Prison are adequate and, in particular, are there sufficient numbers of properly trained staff, appropriate supervision and monitoring of inmates, established security checks and procedures and secure cells and fencing.

The Speaker: Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: The security measures at Northward are adequate for the vast majority of prisoners held there.

Significant improvements have been made over the last two years in this area. Much has been made in the media of the \$1.3 million fence that was completed, with the exception of the planned workshop compound – cancelled due to cost overruns, in December 2000. Whilst this fence is a considerable improvement on the former chain link perimeter it must be remembered that no secure prison in the UK has a fence of this type without its being "clad" – the bottom 7 feet being covered with steel plate – or being protected by a barrier of razor wire coils. This option is not practical at Northward due to the rapid growth of vegetation that would be impossible to clear.

There has been considerable improvement in Gate lodge security with the movement of the medical centre, prisoners' reception, the holding cell and legal

visits out of the gate area. Cameras are due to be installed in the new visitors block imminently and this will complete the movement of prisoners' activities out of the Gate. In addition the original perimeter fence scheme has been modified to improve a secure airlock facility and the Gate Office has been enlarged to include a communications room that holds the camera monitors and electronic locking equipment.

A security camera has been fitted to the radio tower behind the Prison and a further camera purchased for installation on a 65 foot pole at the diagonally opposite corner. Electronic locks and cameras have been installed in the high risk unit.

There have been improvement in the structure of the cells, many of which had rotten windows – security reinforcing straps have been fitted and security grilles, some of which were held in by 1" screws and plastic fixings have been properly fitted. In the high risk unit the grilles and window bars have been reinforced to increase the time needed to cut them.

It needs to be made clear that Northward does not have anything remotely resembling a Maximum Security Unit. The Prison did not help itself in the perception of the general public by initially referring to the spur on A wing and then to the top floor of D wing as the maximum. It has been estimated that to provide a genuine maximum security facility at Northward for the very small numbers that is required, this would require some C\$6 million in capital and \$750,000 a year in recurrent costs. This is not a viable proposition in the current financial climate and consideration is being given to the transfer of prisoners requiring this level of security to the UK. However, when this occurred after the '99 riot there was a very real risk of a Human Rights challenge through Judicial Review.

The main issue at Northward is that the prison was built in the early 80's, which, as Sir Stephen Tumin (the UK Chief Inspector of Prisons) put it; "it was not a good time for Prison construction". It was not designed for the wide range of prisoners that it holds today. Due to lack of capital investment it has not been maintained to an appropriate standard and most repairs have been done on the cheap. Significant facilities were lost in the riot and not replaced. The current management has been faced with the task of patching up a declining infrastructure to keep the establishment running whilst at the same time replacing the facilities that should have been in place and simultaneously attempting to take the Prison forward.

It is considered that staffing levels are adequate for a prison of this size. The number of remand prisoners who have to appear in court regularly is a drain of resources as is the absence of a dental surgery – this necessitates regular escorts to town. It has been agreed in principal with the Chief Justice and Solicitor General that a remand magis-

trate's court will be established at the Prison in the new Visitor's Block. A bid will be made for the construction of a dental surgery – the original was destroyed in the riot and not replaced – in the 2002 Budget submission.

Staff training was very limited in 1999 and 2000 as the emphasis was the reduction of overtime and the honouring of leave and Time Off in Lieu (TOIL) owed from the time of the riot. In 2001 the opening of the Caribbean Training Centre at the Prison enabled serious training to start once again. For the last two months use has been made of the new visits block to run training in basic skills on a Thursday, lunchtime with the Prison locked down whilst this is in progress. The restoration of order in the Prison has enabled management to move from a "fire fighting" reactive role to a more proactive supervisory role. Adequate procedures for the supervision and monitoring of prisoners are in place. However, these need reinforcing with some staff, and this is the object of the current training drive.

Supplementaries

The Speaker: Honourable Minister, perhaps you may want to indicate whether on page two it was your intention to say 2002 as opposed to '2003 Budget submission' in the penultimate paragraph.

Dr. the Hon. Frank S. McField: Madam Speaker, that would be correct; '2002 Budget submission'.

The Speaker: Are there any supplementaries?
The Member for the district of East End.

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

The Minister says in his substantive answer that it is considered that staffing levels are adequate for a prison of this size, and then at the end of the answer he says, adequate procedures for the supervision and monitoring of prisoners are in place. However, these procedures need reinforcing with some staff and this is the object of the current training drive. I am just wondering if it is the training of staff or additional staff that is meant in those two statements.

The Speaker: Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: The level of training for some staff is in need of improvement and that is part of the current drive; to improve the level of monitoring and supervision that is capable and many times dependent not upon the number of staff but on the ability of the staff. These training exercises during lunch times are to make officers more aware of these particular procedures and to continuously reinforce those procedures in their minds.

The Speaker: The Second Elected Member from George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

In his substantive answer the Honourable Minister has dealt with this parameter fence and the answer says that whilst this fence is a considerable improvement on the former chain link parameter it has not been clad, that is, the bottom seven feet of the fence have not been covered with steel platters or protected with a barrier of razor wired coils, as the case with similar cases in the UK. Then the answer says that this option is not practical at Northward due to the rapid growth of vegetation that would be impossible to clear.

I wonder if the Honourable Minister could say whether that aspect of it, that is, the rapid growth of vegetation refers to the option of razor wire coils or is that a general response to the whole situation with the fence. Could he also say whether or not the fact that the fence is not clad makes it more vulnerable to escapes and why it has not been clad? Is it an issue of cost or is there some other reason why it has not been clad?

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, with regards to the issue of security at Northward Prison we have in our answer made it clear that the fence is only one aspect of the physical material that is used to control prisoners.

The answer with regards to rapid growth of vegetation that would be impossible to clear, that has to do with the bottom part of the fence, obviously grass does not grow in the air so it does not have to do with the top part of the fence, it has to do with the bottom part of the fence, if that is what the Honourable Member was asking. It is the barrier of razor wire coils that would be placed at the bottom part, which is the part that is not practical to have because of the rapid growth. That is just one explanation as why it is not there but it is not the total reason why it is not there. One of the main reasons that it is not there is because of the cost. That is why it is not on the top and probably, mostly likely why it is not on the bottom, but the fact that you have the rapid growth of the vegetation also is an additional reason why it is not there.

I would have no problems admitting that one of the reasons why we do not have a maximum security prison or a maximum security block and why we do not have the fence in its completion is because of the lack of funds.

The Speaker: The Elected Member for East End.

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

I note where the Minister said that consideration is being given to transfer of prisoners requiring the high level of maximum security to the UK. I

note that he did not read the last sentence in that paragraph in the answer and maybe he can tell us why.

My question is, what is going to be the cost? Does he have any idea of the cost per prisoner, if and when we transfer them there; was that looked into?

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, I Tabled the Report on the inspection of Northward and Fairbanks Prisons on Grand Cayman 25 – 30 March 2001 and I did ask that the Honourable Members of this Legislative Assembly would make themselves familiar with the Reports and the recommendations contained therein. I would therefore like to refer the Member from East End to the Report where again we discussed the idea of having a maximum security unit or Prison and the cost of that. The most recent Report or Review supported the idea that it would be more beneficial for us to look in terms of transferring more serious prisoners to the United Kingdom rather than having to build a separate maximum security unit to contain them.

The premise here is that the United Kingdom should in some way be supportive of the dependent territories, internal security issues as they relate to the incarceration and containment of difficult prisoners.

After the riots prisoners were sent to the United Kingdom and it is contained in the Report also the types of expenses that we had to pay and they were obviously not cheap. So, in terms of saying that we are considering, it means that we are continuing to speak with the Governor; to speak with the Foreign and Commonwealth Office to see whether or not it would be possible for us to make these arrangements and of course cost is a very important part of making up the final decision as to whether or not we could do it.

There are several aspects out there that need to come together for that to happen and, Madam Speaker, we have no facts, at the moment, as to the cost and whether or not the United Kingdom is receptive to the idea. What we know is that we do have a few prisoners who we have categorised as being the type that might create and issue for us, and that it would be more expedient to consider if it was possible, locating them in another jurisdiction like the United Kingdom or any place where we could find persons that would be able to take their control into their hands. We are not in the position at the moment to say what the cost would be since we have not gotten a response from the United Kingdom with regards to that particular idea.

The Speaker: The Elected Member for East End. I will allow one more supplementary after this one.

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

It may be to the Minister's disappointment but I would like to go on record and say that I have thoroughly read that Report myself thus the reason I asked the question. It was on the short-term basis and I respected how ex-

pensive it was then, therefore I was merely asking if it was done on a long-term basis. I have read it extensively and understood it too!

Going back to an answer the Minister gave to the Second Elected Member from George Town on the parameter fence, I did not understand his reply when he said that it is not practical to keep the vegetation away from the bottom of the fence where the cladding or the razor wire would further secure that fence and prevent escapes and such.

I wonder if he could tell us if it was explored to prevent the vegetation when preparing the grounds around there, or was it just taken for granted that the vegetation would grow up, which is natural if you leave the natural ground such as soil there. Is there a possibility of putting concrete around the fence or properly doing something in the form of laying plastic down and putting gravel on it to prevent vegetation growth?

The Speaker: Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, I have an issue here. I do not have a problem with questions but I think that there has been a very substantive answer that has been provided to the Member who asked the question. If we are going to play little games about technicalities, I am not a technical expert and I have not come here with any technical expertise to play around with these questions.

I answered a question that related to the state of the security measures at Northward Prison and I believe that I have answered that question. Now with regards to the fence I have accepted more or less that the main reason why these wires have not been added on the top and on the bottom is because of cost and I would like for that to be my answer to the question as to the state of the fence at Northward Prison.

The Speaker: Any further supplementaries? If not we will move on to the next question.

Question No. 42

The Speaker: The Second Elected Member for George Town.

No 42: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for Community Services, Women Affairs, Youth and Sports if any of the senior positions at Northward Prison are filled by persons of Caymanian status and, if not, what succession planning is in place to seek to fill the positions of Director, Deputy Director and Assistant Director with persons of Caymanian status.

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Of the four Director grades currently in post the Deputy Director has Caymanian status. One of the seven Principal Officer (PO) grades has Caymanian status and two of the local contracted Principal Officers have applied for it.

An assessment exercise was carried out by staff from the UK Prison Service Training organisation on all local staff at Principal and Lead Officer level in 2001 to evaluate potential and identify training needs.

The opening of the Caribbean Training Centre enabled 7 staff (including 3 Caymanians) to attend 2-week managerial courses in 2001 and a further 4 will be offered that opportunity in 2002.

In 2001 one member of staff was sent on a 3 week Search Coordinators Course and another on a 3 week Security Intelligence Course.

At the informal level significant amounts of coaching in managerial skills is taking place. All the local staff at Director and PO level have taken part in promotion or recruitment boards and been coached in assessment and marketing.

In 2001 the Deputy Director completed the Certificate in Personnel Management and 2 Principal Officers are on the current course.

One (1) Lead Officer is being given assistance on a Business Management Course and 5 local staff are currently on various computer courses at the Community College.

Succession planning for the most senior prison grades is an issue throughout the Caribbean. Plans are currently being formulated with the University of Portsmouth, who accredit our Personnel Management courses to establish a Caribbean Diploma in Prison Management, which will be based in Cayman at the Caribbean Training Centre at Northward and offered to all Prison Services in the Caribbean. It is envisaged that this will be a two year modular course with residential elements, project work and at least one attachment to another service. At the end of the first year successful candidates would receive a Certificate in Prison Management and have the option to go on to the second year and the Diploma. Portsmouth University is hopeful that a third year leading to a degree can be offered. The course would not only cover generic management skills, budgeting and contract work, but also specific prison areas such as staff profiling, the law, Human Rights and rehabilitative programmes. It is intended to have a draft outline and costing agreed before the Caribbean Prison Superintendents conference in November so that the scheme can be presented there. Some funding has been made available from the UK Great Britain Pound £4000 for exchanges.

Historically, Caymanians with the potential to manage at the highest grades have shown little interest in joining the Prison service. The working conditions at the Prison have never been good and the work was seen to be of low status. It is hoped that this is changing and Caymanians will begin to see this as a worthwhile and secure career.

The post of Administration Manager at the Prison is one that has been traditionally filled from the "expat pool". Qualified Caymanian administrators have not wished to work at the Prison. Particularly they have not been prepared to work inside the Prison. The Administration unit is now located in a bungalow outside the perimeter. The Financial Manager for the UK Prison Service Training organization has been recruited. She was responsible for a budget equivalent to C\$23 million and 12 training outstations. Her task is not just to sort out the administrative systems at Northward but also, as a former financial tutor in the UK, to train local staff over the next 2-3 years to succeed her.

A positive start has been made to identify and equip local staff to take over the senior roles in the Prison service. However, it will take time for this to be completed. In the 1991's Admiral Sir Raymond Lygo carried out a review of the management of the UK Prison Service. In his preface he stated that "governing a prison is one of the most difficult and complex managerial jobs I have ever encountered". It is not a sensible option to put individuals into these posts without the requisite training and expertise. Thank you, Madam Speaker.

The Speaker: Are there any supplementaries? If there are no supplementaries we will now move to the next question.

Question No. 43

The Speaker: The Elected Member for East End.

No 43: Mr. V. Arden McLean: asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce how will the Cayman Islands Associate Membership of CARICOM impact –

(a) custom and excise requirements with respect to goods imported from other member states; and

(b) the free movement and employment between the Cayman Islands and other member states.

The Speaker: Honourable Minister for Tourism.

Hon. W. McKeeva Bush: Madam Speaker, the Cayman Islands Associate Membership in CARICOM will have no impact on:

(a) Custom and excise requirements with respect to goods imported from other member states; and

(b) The free movement and employment of persons between the Cayman Islands and other member states.

The Speaker: Are there any supplementaries? If not we will move on to the next question.

Question No. 44

The Speaker: The Elected Member for East End.

No 44: Mr. V. Arden McLean asked the Honourable Third Official Member responsible for Finance and Economics what progress has been made in identifying a suitable replacement for the position of Director of the Monetary Authority.

The Speaker: The Honourable Third Official Member.

Hon. A. Joel Walton: Madam Speaker, the position has been advertised, applications received and reviewed, and candidates short-listed. To date, one candidate has been interviewed, but was not successful. The other two candidates will be interviewed within the next month. Meanwhile, with Mrs. Dilbert's return to the UK, the General Manager of the Authority will be appointed to serve as Managing Director from 1 July 2002.

Supplementaries

The Speaker: We will just pause for a moment to allow the circulation of the answers to the question. Are there any supplementaries?

The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I wonder if the Official Member can say if there were any applications from Caymanians.

The Speaker: The Honourable Third Official Member.

Hon. A. Joel Walton: Madam Speaker, to my knowledge there were at least two applications from Caymanians.

The Speaker: Are there any further supplementaries?
The Elected Member for North Side.

Ms. Edna M. Moyle: Thank you.

Would the Honourable Acting Third Official Member say if in his answer, where he says that to date one candidate has been interviewed which was not successful, was that a Caymanian?

The Speaker: The Honourable Third Official Member.

Hon. A. Joel Walton: Madam Speaker, that individual was not Caymanian.

The Speaker: Are there any further supplementaries? If not we will move on to the next question.

Question No. 45

The Speaker: The Elected Member for East End.

No 45: Mr. V. Arden McLean asked the Honourable Minister responsible for the Ministry of Planning, Communications, Works and Information Technology to outline, in detail, the new payroll system for hourly-paid employees in the Public Works Department.

The Speaker: The Honourable Deputy Leader of Government Business and Minister responsible for Planning.

Hon. Linford A. Pierson: Madam Speaker, the Public Works Department's business relating to the payroll system is as follows:

Hourly paid employees are assigned to one of the Department's three cost centres and their names are entered into the new Integrated Resources Information System (IRIS) Human Resource (HR) and payroll module. The Foreman completes a Daily Activity Report for each employee under his responsibility. These reports record, amongst other project-related matters, the employee's hours of attendance for the day and the name of the project that these persons worked on. The Supervisor responsible for that work group then approves this document prior to passing it to the Payroll Unit in Public Works Department's Accounts division.

Payroll staff then record on a PWD spreadsheet the hours of attendance for each day against the respective project. At the end of the pay period the total hours of attendance for the pay period are then entered electronically into the HR payroll system. Additionally, for Treasury usage, a separate hard copy is completed that also states the total hours to be paid to the employee for that particular two-week pay period.

This document and the electronically recorded information must be completed and forwarded to Treasury within at least four days, prior to payday. Any pay information received after this deadline will be included in the next pay period. This four-day period allows Treasury to complete their internal procedures and notify the employees' Banks by electronic disk. The payroll is then available for withdrawal by the employee usually by noon on payday. A Treasury pay-slip advice note is forwarded to the employee through PWD by payday or within a day or two thereafter.

Changes to procedures introduced by PWD in 2002 include:

1. PWD's new payroll system came on line during FY2000 when the new IRIS HR and payroll modules were first introduced. However, new internal procedures were implemented from January 2002 to improve the efficiency of the payroll cycle, as outlined hereafter.

2. Payment is now made direct to an employee's Bank account, instead of payment by cheque handed to an employee on a payday. This

now normalizes the payment method with all other PWD and Government employees.

3. Fortnightly pay periods came into effect prior to 2002. However, in order to facilitate payment direct to an employee's banks account, Treasury and the banks needed a minimum 4 day lead-time to ensure payment is credited to the employees account by noon on the stated payday. As a result commencing in 2002, the payday for a two-week pay period is now the Friday following the end of the two-week pay period.

4. In 2001, the payday was the same day as the end of the pay period. This necessitated part of the second pay week being an advance of pay. This procedure often required corrections to be made in the following pay period for the pay-week that had been advanced. This was not an advantageous situation and needed correction. As a result of this situation considerable reconciliation difficulties arose in explanation of the adjustments made resulting from this advance of pay.

5. The 2002 improvement instigated by PWD, has increased efficiencies and effectiveness of the pay system and allowed employees to be paid for the hours of recorded attendance without the need for adjustments resulting from the previous week's advance of pay. It is understood that Treasury will be instigating this procedure for all other Department in the coming months.

Supplementaries

The Speaker: Are there any supplementaries?
The Elected Member for East End.

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

I wonder if the Minister could tell us how this new system now affects vacation advance pay. Is it more efficient in that employees are given their pay up front when they apply for vacation, and what time period is required of them to submit vacation requests in order that their pay is in advance when they go on vacation?

The Speaker: Honourable Deputy Leader of Government Business.

Hon. Linford A. Pierson: Madam Speaker, as all Honourable Members are aware—I think it was last week, or very recently, I made a statement in this Honourable House stating that the procedure for advance of pay for workers going on leave had reverted to the old system, that is to do with vacation. This answer is specifically to do with ordinary pay period but they still get their vacation pay when they are going on leave.

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

Mr. D. Kurt Tibbetts: Thank you. In the substantive answer under the changes to procedures introduced by PWD in 2002, the very last one, No. 5, where the Minis-

ter states that it is understood that Treasury will be instigating this procedure for all other Departments for the coming months, is that answer saying that at present there are other Departments which are still being paid in the manner that the Public Works employees were paid prior to this new system that has been put in place?

The Speaker: Honourable Deputy Leader of Government Business.

Hon. Linford A. Pierson: Madam Speaker, it is my understanding that 'yes', there are one or two other Departments such as Environmental Health and perhaps the MRCU, where the old system used by Public Works is still perhaps being used in those Departments, but this will be corrected by Treasury as soon as possible.

The Speaker: Are there any further supplementaries?

The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Minister state if the new system being employed is simply a matter of policy and as stated in the answer, just to create a more efficient methodology for the Treasury to be able to operate? If that is the case, can the Minister state whether reverting to the old system is in anyway sensible to look at from the point of view of the employees based on exactly what has happened?

Just so that the Minister will understand . . . from the answer I understand the reasoning behind the shift but, as most other things, because this was what obtained for so long perhaps it is a difficult transition period. The fact that one department is being dealt with, and it is not universal throughout the group employees who receive the two-week pay rather than those who are monthly paid, it is a roundabout way of really asking: Is it something that could be left how it is or . . . ? I am just soliciting an answer that would reinforce that there is simply no other sensible way to deal with it [other] than the way it is being dealt with now.

The Speaker: The Honourable Deputy Leader of Government Business.

Hon. Linford A. Pierson: Thank you, Madam Speaker. The only problem that the workers had with the new system, which has been brought to my attention, and as I am advised by Public Works, was with the advanced vacation. I was made aware of this in my Ministry and immediately on receiving communication from the workers at Public Works I corrected the situation, which I advised the House of. So, the vacation pay has now reverted.

The advantage of the new system –and I think this is the crocks of the Honourable Member's

question, compared with the old system, is that as it has said here in paragraph 5. The 2002 improvement instigated by PWD, and I should make it clear that this was a matter that was instigated by the Public Works Department, not through my Ministry, has increased efficiencies. So, it really does not matter who instigated it, it has increased the efficiencies and effectiveness of the pay system. I think Public Works is to be congratulated for that. It has also allowed employees to be paid for the hours of recorded attendance without the need for adjustments resulting from the previous week's advance of pay.

The way that it worked before and that is in section 3 of this section regarding changes to procedures introduced by Public Works in 2002, was that before 2002 people were paid on the same day. In 2001 the payday was the same day as the end of the pay period, which really meant that Public Works was not in a Position to get all the necessary information from the supervisors et cetera on that day, and as a result of that they had to pay the workers in advance. What happened at the next pay period is that that then had to be reconciled, which meant that if a worker missed a day or something, it took all of that time to adjust that payment back and that was creating a lot of inconvenience and inefficiencies.

This new system now provides for much better efficiency because 1 week is held. If a worker leaves it is adjusted at that point and time but if –say tomorrow is Friday, he works up until tomorrow, he would have been paid up to last Friday so that that week is kept by Public Works. It is now in a situation where the workers are not in any complaining about this, they are very happy with the situation at Public Works and they are also very happy that the Government decided to revert the situation on the advanced of vacation pay.

So both situations have been adjusted to the workers satisfaction. That is the information that has been given to me and the Ministry.

The Speaker: Elected Member for East End.

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

First of all I want to assure the Minister that everybody on this side support the new system with regards to you being paid what you work for and at a later stage you will be compensated for your week. '

I wonder if the Minister could tell us if the reversal of the advance pay for vacation has already been put in place or when it will be put in place; reversal to the old way of paying it in advance.

The Speaker: The Honourable Deputy Leader of Government Business.

Hon. Linford A. Pierson: Madam Speaker, it is my understanding that immediately on the announcement here in the House Public Works proceeded to put the system in place. So, it is in place.

The Speaker: Are there any further supplementaries? If not that concludes question time.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received no notice of any statements from any Member of Government.

The Speaker: I understand that the Honourable Deputy Leader of Government Business would like to move a motion at this stage.

Suspension of Standing Order 24(5)

Hon. Linford A. Pierson: Thank you, Madam Speaker.

In accordance with the provisions of Standing Order 86 I seek to suspend Standing Order 24(5) to enable me to bring a Government Motion before the House, namely the Cinematograph (Amendment) Rules 2002.

The Speaker: The question is that Standing Order 24(5) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 24(5) suspended.

GOVERNMENT BUSINESS

BILLS

THIRD READING

The Development and Planning (Amendment) Bill, 2002

The Speaker: Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, I beg to move the Third Reading of a Bill shortly entitled The Development and Planning (Amendment) Bill, 2002.

The Speaker: The question is that a Bill shortly entitled the Development and Planning (Amendment) Bill, 2002 be given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Development and Planning (Amendment) Bill, 2002 has been given a Third Reading and passed.

The Speaker: At this time we will take the luncheon break and reconvene at 2.15 pm.

Proceedings suspended at 12.27 pm

Proceedings resumed at 3.02 pm

The Speaker: Proceedings are resumed.
Honourable Leader.

ADJOURNMENT

Hon. W. McKeever Bush: Thank you, Madam Speaker, As we all know the Financial Secretary, the Honorable Honourable George McCarthy is away. Mr. Joel Walton has been acting this morning but due to some emergency that has arisen we are proposing to adjourn the House until 10 am tomorrow morning.

The Speaker: The question is that the House now adjourn until 10 am tomorrow morning. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 3.04 pm the House stood adjourned until 10 am, Thursday, 11 July 2002.

OFFICIAL HANSARD REPORT
THURSDAY
11 JULY 2002
11.12 AM
Fifteenth Sitting

The Speaker: I shall invite the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs to grace us with prayers.

PRAYERS

Hon. D. Kurt Tibbetts: Let us pray.

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

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

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

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

Proceedings resumed at 11.14 am

The Speaker: Please be seated. Proceedings are resumed.

Honourable Leader of Government.

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, I move the adjournment of this Honourable House until Monday, 15 July 2002 at 10 am.

In moving the adjournment of this Honourable House I need to explain that the reasons are because of the Honourable Financial Secretary being at a meeting at the Caribbean Development Bank, and the Deputy Financial Secretary who was sworn in yesterday to act is not present.

The Assistant Financial Secretary (who was assigned to fill in for the Deputy Financial Secretary) has stated that she is not in a position to deal with the eight Bills on the Order Paper in the name of the Third Official Member the Honourable Financial Secretary.

The Speaker: Thank you Honourable Leader.

Before so moving, I wish to express for the record the grave concern that the Chair has in respect of this situation in that as a result of the adjournment, we have all Members present including staff and other Civil Servants who will not be able to carry out their duties due to the absence of a Member who was sworn in to be here. I would ask the First Official Member if he would convey the displeasure of the House at such an act.

I now move the Motion for the adjournment of this Honourable House until Monday, 15 July 2002 at 10 am. All those in favour please say Aye. Those against, No.

The Speaker: The Ayes have it.

At 11.18 am the House stood adjourned until 10 am, Monday, 15 July 2002.

OFFICIAL HANSARD REPORT
MONDAY
15 JULY 2002
11.05AM
Sixteenth Sitting

[Deputy Speaker in the Chair]

The Speaker: I shall now invite the Honourable Minister for Tourism to lead us in prayers.

PRAYERS

Hon. W. McKeeva Bush: Let us pray.

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

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

Let us say the Lord's Prayer together:

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

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

Proceedings resumed at 11:07 am

The Speaker: Please be seated. Proceedings are resumed.

**ADMINISTRATION OF OATHS
AND AFFIRMATIONS**

(Administered by the Acting Clerk)

The Speaker: The first item on the Order Paper today is the administration of Oaths or Affirmations; the administration of Oath of Allegiance to Mr. Donovan W.F. Ebanks, MBE.

Mr. Ebanks would you go to the Clerk's table, please?

Oath of Allegiance

Mr. Donovan W. F. Ebanks

Mr. Donovan W. F. Ebanks: I, Donovan Ebanks, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II; Her heirs and successors, according to law, so help me God.

The Speaker: Mr. Ebanks, I welcome you to this Chamber on behalf of Honourable Members. As the Honourable Acting Temporary First Official Member, you may now take your seat.

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

Apologies

The Speaker: I have received apologies from the Honourable Speaker who is off Island on official business; the Honourable Minister for Community Affairs, who is also off on Government business; the Second Elected Member from West Bay and the Second Elected Member from George Town who are both also off on Government business; and the Third Elected Member from Bodden Town who is off for medical reasons. I have received notice from the Second Official Member that he will be arriving late for this Sitting.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**The Sunday Trading (Amendment) Order 2002 and
The Cinematograph (Amendment) Rules 2002**

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I beg to lay on the Table of this Honourable House The Sunday Trading (Amendment) Order 2002 and The Cinematograph (Amendment) Rules 2002.

The Speaker: So ordered. Would the Honourable Minister wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Mr. Speaker. I think I will reserve my comments until I get to the Government Motion No. 6/02, which deals with these matters.

The Speaker: Very well.
Madam Clerk.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE GOVERNMENT

Suspension of Standing Order 23 (7) and (8)

The Speaker: Could I ask for a Member of the Government to move the suspension of Standing Orders to allow for the continuation?

Hon. W. McKeever Bush: Mr. Speaker, we move the suspension of the relevant Standing Order in order to allow question time to begin after 11am.

The Speaker: The question is that Standing Order 23 (7) and (8) be suspended to allow question time to continue beyond 11am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23 (7) and (8) suspended in order for Question Time to continue beyond 11:00 am.

Question No. 48

The Speaker: The Elected Member for East End.

No 48: Mr. V. Arden McLean asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture, what is the timeframe for publicising School Inspection Reports?

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, a short Government Information Services (GIS) article goes out to the press within days of the formal release of the Report by the Ministry. This tells the public that the Report has been released and is available from the school. It includes the key strengths of the school and the key issues for action it has to work on.

The time frame for publishing the Report in the press varies. The "Caymanian Compass" has always been willing to print the Summary Reports, but the editor decides when the Reports will be printed. In some cases, as with the East End Primary School,

there have been long delays between the date the Reports were forwarded and the date that they were published.

Supplementaries

The Speaker: The Elected Member for East End.

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

I note that the Minister said that in the case of East End Primary School the delays were quite long between Reports being forwarded to the press on the dates that they were published. As the Minister can appreciate there have been some grave concerns expressed by the school, in particular, the parents.

I wonder if the Minister could tell us if it is not possible for Government Information Services (GIS) to have these Reports published through paid advertisements.

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, I suppose that is an avenue which can be explored bearing in mind that we would have to ascertain what the cost of such a practice would be, and if that cost is a significant cost when no provision was made for it then we may have an awkward situation on hand. It is however, something that I give the Honourable Member my undertaking that we can explore.

Reverting to the situation with the Report of the East End Primary School, it is regrettable that the *Compass* did not publish the Report at a time when it would seem relevant and appropriate to when the inspection was made and the Report indeed, given to the *Compass* by the Inspectorate. However, we must bear in mind that the *Compass* does this as a service to the Community and while we are appreciative of them doing so, we are not in a position to make demands. Hopefully they can appreciate the sensitivity of the situation and in future try to be more timely in the reporting.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you Mr. Speaker. I appreciate the Minister's reply. Seeing that it was almost two years after the inspection was made [a year and a half, thereabouts] before it was publicised in the papers, I wonder if the Ministry has at this stage, written or made it known to the *Compass* maybe, as to whether or not improvements have been made on the weaknesses of the school and if not, if there is any intention of the Ministry publicising a letter to that effect.

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, the Honourable Member is within his rights to be concerned and in-

deed the school's inspectorate that exists as an independent and impartial body wrote to the *Compass* on the 17 May 2002, outlining its concerns about this particular hiatus in the publication of the Report concerning the East End school. Also, the fact that in its opinion, it had several other concerns, the Inspectorate went on to state that what was not clear was that what was published was an edited version of the article that was submitted by the Inspectorate to the *Compass*. It went on to say that the key strengths of the school as well as other positive aspects of the Report were omitted from that edited version, and that the inspection Report but not the article, pointed out the school had made progress in important areas since a short inspection visit to the school. Significantly too, the date of the inspection was not mentioned and it was not made clear to the reader that what the *Compass* was publishing was late by one year. In other words it was the Report for 2001 but it never came out until 2002.

The Speaker: The Elected Member for East End.

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

Again, I thank the Honourable Minister for pointing out that a letter was written to the *Compass* explaining that. Keeping in mind the effects that the late publicising of this Report has had on the community, I wonder if the Minister would be mindful to Table that letter in this Honourable House so that it would be made public because I have not seen it publicised in the *Caymanian Compass* and it may very well elate some of the fears and concerns that the community of East End has about their school.

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, again I note and empathise with the Honourable Member's position. It strikes me as being peculiar that although the school's inspectorate wrote this letter to the *Compass* on the 17 May 2002, outlining its concern with the edited Report, the letter by the Chief Inspector of the school's Inspectorate has not to this date been published.

Unfortunately I cannot comply with the Honourable Member's request of tabling the letter because although I have a copy from which I acquainted myself and referred, I cannot table the letter because the letter is indeed not written to me. So, it would be entirely inappropriate and out of order for me to table this particular letter.

What I undertake to do however, is to get the school's Inspectorate to investigate the feasibility of putting the letter out as a paid advertisement, or alternatively, send the Honourable Member a copy of this letter and also make a copy available to the school principal.

The Speaker: The Elected Member for North Side.

Ms. Edna M. Moyle: Thank you, Mr. Speaker. Could the Honourable Minister say from the first paragraph of his answer where it says that the Report includes the key strengths of the school and the key issues of the action it has to work on, if there is a timeframe for this action to be taken on these key issues that the school needs to work on?

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: Certainly, Mr. Speaker. The procedure as I understand it is this: When an inspection has been done and the Report received by the school, the school then has a certain time-frame within which to reply to the School's Inspectorate saying what action it, the school, is taking to comply with the recommendations with a view to alleviating the weaknesses. When this is done then there is a post inspection to find out if indeed these actions have been successfully taken.

The Speaker: The Elected Member for North Side.

Ms. Edna M. Moyle: Thank you, Mr. Speaker. Would the Honourable Minister say if the post inspection still finds that there are weaknesses in the key issues that the school needs to work on and how long then does it take that particular school to deal with those issues?

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, if upon the post inspection, all of the weaknesses still exists then we have a major problem. The School's Inspectorate then has to decide why the targets and weaknesses were not addressed; whether it was a case of faulty leadership or whether it was a case of some other problems which exists. We have to analyse this. If it is the case of the lack of leadership abilities then obviously we know what has to be done. Rare are the cases where upon post inspection that the weaknesses have not been alleviated.

The Speaker: The Elected Member for East End. I will allow one more supplementary after this one.

Mr. V. Arden McLean: Thank you, Sir.

Mr. Speaker, having heard the Minister's explanation of the process, just to get the record straight and keep it straight, I wonder if the Minister could say if East End Primary post inspection was satisfactory to the Inspectors and to his Ministry.

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, I cannot recall anything to the contrary. Certainly it would have come to my attention by now had there been any significant weaknesses, which were not addressed. I have in the last little while seen so many inspections and post

inspection reports that I cannot recall without more research exactly if the post inspection of the East End Primary School is in one of those. What I can say is that East End Primary School, according to reports I have received from the Education Department and from what I have seen otherwise, is doing well as a Primary School.

Most recently it was a pilot school for a reading scheme and based upon the success of that project the reading scheme is going to be adopted throughout the Primary schools system in the Cayman Islands. I would have reason to feel satisfied that the school is up to the standards of the other Government Primary Schools in the country.

Question No.46

(Deferred)

The Speaker: The Elected Member for East End.

No 46: Mr. V. Arden McLean asked the Honourable Third Official Member responsible for Finance and Economics, what is the status of the financial audit of the Drugs Task Force.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, in accordance with Standing Order 23(5) I beg to ask that this question be deferred until Wednesday 17 July 2002.

The Speaker: The question is that in accordance with the provisions of Standing Order 23 (5), Question No. 46 be deferred until Wednesday 17 July 2002. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Question No. 46 deferred.

Question No. 47

The Speaker: The Elected Member for East End.

No 47: Mr. V. Arden McLean asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce if Government has given permission to the developers, or general contractors of the Ritz Carlton development to import labour.

The Speaker: The Honourable Minister responsible for Tourism.

Hon. W. McKeever Bush: Mr. Speaker, the Immigration Board has approved seven (7) work permits for the developer of the Ritz Carlton project. The devel-

oper has also employed five (5) Caymanians in various capacities.

Additionally Mr. Speaker, the Immigration Board has approved ten (10) work permits for technical staff for the general contractor on the Ritz Carlton project, the Fluor Daniel Corporation. A total of seventeen (17) Caymanians have thus far been employed in various capacities on the construction project and a further thirty-eight (38) Caymanians are scheduled to start work on the project this morning. This will bring the total number of Caymanians employed on the construction project as of today's date to fifty-five (55). Mr. Speaker, it should be noted that it is a local construction company, which has been sub-contracted by the general contractor, that is, hiring the staff for the construction project and not the developer or the general contractor.

Mr. Speaker, it should also be noted that there will be no mass importation of labour from Mexico or the Philippines or any other country as has been rumoured. It has been agreed that the developer of this project would ensure that there is no such mass importation of labour. The fundamentals of the agreement are that every available Caymanian in the construction industry who is desirous for working on the project would have preference in the hiring process. If the project still required additional labour after hiring all available Caymanians in the industry, they would then seek to employ persons from CARICOM countries to satisfy the requirements for labour.

Supplementaries

The Speaker: The Elected Member for East End.

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

The last sentence says that if further employees are required they will be coming from CARICOM countries. Can the Minister tell us if this is in-keeping with the Associate Membership of CARICOM?

The Speaker: The Honourable Minister for Tourism and Development.

Hon. W. McKeever Bush: No, Mr. Speaker. This is in keeping with a request by the Government to them, not to attempt to employ people from Mexico or from the Philippines as had been rumoured and to search within CARICOM for employees.

The Speaker: The Elected Member for East End.

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

I hear the Minister, but can tell us why CARICOM is specified because there are other countries in the Caribbean that are not in CARICOM.

The Speaker: The Honourable Minister for Tourism and Development.

Hon. W. McKeeva Bush: Mr. Speaker, CARICOM is specified because we usually hire from Jamaica and Trinidad. We get Guyanese, St. Lucians, people from St. Vincent and the Grenadines and those main areas; they are CARICOM countries, but we do not have to be within CARICOM to hire them. We hire them now before we are an associate member. I should say, Mr. Speaker, this is not to say that these are the countries the Member is speaking of. Maybe he could tell the House which countries he is talking about. If these are the countries he is talking about then I would suspect that they would be given an opportunity.

The Speaker: If there are no further supplementaries we will move on to the next question.

Question No. 49

The Speaker: The First Elected Member for George Town.

No 49: Mr. D. Kurt Tibbetts asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economics to give an update on the workings of the committee, being chaired by the Deputy Financial Secretary, looking into property insurance rates in the Cayman Islands.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, the Committee has had a useful preliminary meeting with the Cayman Islands General Insurance Association. Following that meeting, a formal request for information was sent to the association seeking input on:

- (i) the reasons for the recent increases in property insurance rates;
- (ii) how the re-insurers' base rate for the Cayman Islands compares with that for other Caribbean countries.

In the interim, the Committee is consulting with the Insurance Division of the Monetary Authority and its own insurance broker for additional input on the matters referred to the Cayman Islands General Insurance Association.

A follow-up meeting with the Association is expected to take place later this month, after which a report will be prepared for Executive Council.

Supplementaries

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Member state who comprises this committee.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, 6 members of the Association was present: Britam; Island Heritage; Cayman Insurance Center . . .

Mr. D. Kurt Tibbetts: Mr. Speaker, if I may interrupt please.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: I interrupted because I am absolutely certain that from the answer he is giving that he did not understand what I was asking. What I am asking the Member to tell me is the names of the persons who are members on the Committee, not the insurance persons who were present.

The Speaker: The Honourable Third Official Member.

[Pause]

Hon. George A. McCarthy: Mr. Speaker, my apologies, through you to the Honourable Member. The committee comprises of the Deputy Financial Secretary as Chairman and the Deputy Director of Budget and Management Services who is responsible for risk management.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Honourable Third Official Member state if the Committee has been able to ascertain thus far a comparison of what the rates were prior to the recent increase to be able to have some type of statistics with regards to what the difference is from what obtained prior to the increase.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I would imagine that would be the case Sir, but what the committee is focusing on is a comparison between the Cayman Islands and the other countries in the Caribbean region. In this regard I would just mention that the range which has been given by way of information to the Committee suggests that it would start from one half of one per cent of the property value [I am talking about insurance premiums now] ranging as high as 2.85 per cent in the region. In this regard in the Cayman Islands, there is an average of 1.25 per cent.

I know this exceeded the information sought for by the Member but I just wanted to give where the focus of the Committee is in terms of looking at the Cayman Islands relative to the rates that are being charged in other Caribbean countries.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. In the answer the Honourable Third Official Member states that a formal request for information was sent to the association seeking input on two matters:

1. The reasons for the recent increase in property insurance rates, which is fine.
2. How the reinsures base rate for the Cayman Islands compare with that for other Caribbean countries.

My question to the Member is, surely the Committee is not going to be totally dependent on the insurance providers to give them the information for which they should make their judgment call.

Can the Member state if the Committee is using its own resources to independently verify the facts that they are seeking?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, at the meeting with the Government representatives the association asks that the Government await the former response that they will provide so that more details could be given which would allow for the Government to have a better understanding in terms of how the revised rates have been arrived at.

Generally speaking it was a view at the meeting that the property insurance premium increases resulted primarily from an increase in the reinsurance rate. This will mean that the Committee will be establishing independent verification of this fact and this is why I gave the information earlier in terms of the base rates that are applicable, and the range within the various Caribbean Islands. I would take this to mean that the Committee will be taking into account the information provided by the association in addition to other relevant information, as necessary, in order to inform their judgment as to the reason for the increases.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. The Member has just stated that there was an assumption that the rate increase for property insurance was as a result of an increase in the reinsurance rates. Can the Member state if he or any member of the Committee has knowledge that these increases were applied prior to any increases in the re-insurers rates to the providers?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I have not gotten that information but that is information that will come to light during the review process.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Can the Member state if the Committee expects that information to come to light through the information being provided by the providers?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, it is likely that could be the case in addition to the other information that the Committee will use to inform its mind, because this Committee is being chaired by persons who will exercise their judgment in terms of what would be reasonable in terms of arriving at an opinion as to why it was necessary for the adjustments to be made in the insurance rates.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. The Member just said that it is quite likely that this information will also come out of the information being provided by the providers. Surely the Member could not expect that the providers would indict themselves by providing such information. My whole point in the line of questioning is not to tie anybody up but to reinforce [I will turn this into a question] the fact of an independent source of information.

Can the Member give an undertaking that this Committee will utilise whatever resources it needs to utilise to prove this point, because certainly, the rates and justification of the increase of rates must hinge on whether this was a fact before hand or after the fact. Can the Minister give that undertaking that the committee will seek independent verification so as, in order to not to have the possibility of any skewed judgments being made?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I understand the undertaking that the Honourable Member is seeking but given the importance of this question and the relevance to the community and the impact upon the community at large, the Honourable First Elected Member from George Town will have to trust the judgment of the Chairperson of the committee together with the support personnel being used. The information that will be provided by the association will be used, but where necessary, Mr. Speaker, given the nature of the question itself and why the Committee was established. Surely the process will take into account the need for independent verification.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Mr. Speaker, the Member has said that I will have to trust the judgment of the Committee and certainly not for a mini second would I question the judgment of the Committee. What the Member has just stated is exactly the commitment I was seeking, which was simply to ask for an undertaking that the Committee do not depend solely on information provided by the providers, but also to have independent sources to verify in order to make their judgment. That is all I was asking for the Member to provide. Now, Sir, I heard what the Member has just answered. I have now rephrased it to the line that he answered to and I again, ask for that commitment.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, it is not difficult to give that commitment because that commitment would be inherent in the process.

The Speaker: If there are no further supplementaries, we will move on to the next question.

Question No. 50

The Speaker: The First Elected Member for George Town.

No 50: Mr. D. Kurt Tibbetts asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economics if the Public Management and Finance Bill, which was passed by the Legislative Assembly on 26th September 2001, has been Gazetted.

The Speaker: The Honourable Third Official Member

Hon. George A. McCarthy: Mr. Speaker, to date, The Public Management and Finance Bill 2001, has not been Gazetted. As all Honourable Members will be aware, a Bill passed into Law by the Legislative Assembly only comes into force when the Governor has assented to the Law and it has been Gazetted. Before the Governor can assent to a Law, he must receive a legal report from the Attorney General, which effectively recommends that the Governor's assent be granted to the particular Law.

In the case of the Public Management and Finance Law, 2001 the Attorney General has not issued such a legal report because he has some concerns with certain provisions of the Law. The Government is due to bring an amendment Bill to this Honourable House, during its current Meeting, to address these concerns. This Bill has been circulated.

Supplementaries

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Subsequent to my putting the question in, the Member will recall an informal meeting of all of the Legislators regarding the issue of an amending Bill. The Member has stated in his answer that in the case of the Public Management and Finance Law 2001, the Attorney General has not issued such a legal report because he has some concerns with certain provisions of the Law. Can the Member state if in order to iron out the concerns, whether it is the intention of the Government to have informal meetings once more with an attempt to gain consensus as to the way forward?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, in terms of what the Honourable Member is asking me to confirm I have not had a discussion with the Government with that regard but I would imagine following the approach that is typical of the Government that a meeting or meetings as necessary, will be held.

Following the discussion to which the Member referred, there has been a committee stage amendment that has been proposed. This has been circulated quite recently and has not been sent down to the Legislative Assembly as yet. It came across my desk just as I was leaving for Barbados to attend the Caribbean Development Bank (CDB) meeting and it is one that I need to turn my attention to and one that will have to be taken to Executive Council. So, just to mention that Honourable Members will notice that this Bill is on the Order Paper for today, but I am going to ask for that Bill to be deferred until a later sitting of this House to allow for that amendment to be further considered.

The Speaker: The Elected Member for North Side.

Ms. Edna M. Moyle: Thank you, Mr. Speaker. The Honourable Member says in his reply that before the Governor can assent to a Law, he must receive a legal report from the Attorney General which effectively recommends that the Governor's assent be granted to the particular Law. I wonder if the Honourable Member could tell this House where that comes from because my Standing Order 56 tells me that the Clerk, as soon as possible, present any Bills passed by the Legislative Assembly to the Governor for his assent. My Constitution under section 40 tells me more or less the same. So, could he inform the House of where this rule comes from that the Attorney General has to give a legal opinion on a law before the Governor assents to it, just for clarity, please?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, while this practice may not be enshrined in the Standing Orders or the Constitution, it has emerged as a practice and it is one that has been pursued over the years as long as I can recall.

The Speaker: The Elected Member for East End.

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

Am I to understand the Third Official Member to say that we have circumvented the Standing Orders and the Constitution of this country for many years? Is that what he just said?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: No, Mr. Speaker, I just take it that since none of our knowledge base is complete because of the fact that this practice has been observed over the years, it is quite likely that there is a process, which allows for that. I cannot point to the particular process but it has come to be established and I just take it that once it is established there is a basis for it, and as a consequence this is why a legal report on any legislation is given before the Governor or a Governor signs off on it.

The Speaker: The Elected Member for North Side.

Ms. Edna M. Moyle: Thank you, Mr. Speaker. Would the Honourable Member say if when this Bill went to Executive Council, whether the Attorney General or someone acting for him was present when the Bill was accepted by Council to come to the Legislative Assembly, and if that is not the time that the Attorney General or whoever is acting for him, advise whether that Bill should come here or not?

The Speaker: Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, the Attorney General as a Second Official Member sits in Executive Council as a part of Executive Council but independent of the review process, which gives approval for the Bill to come to the Legislative Assembly. I am aware of this further process that is normally observed and I cannot comment further on the process.

The Speaker: The Elected Member for East End.

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

Going back to the procedure that has become practice I suspect that would be for legal technical issues in a Bill. Can the Honourable Third Official Member say if the problems with the Bill are of a technical nature or if it is of a personal preference within the portfolios or within the hierarchy structure of Government on how it will work?

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, as the Honourable Member for East End is aware my approach has always been to co-operate as best I can with Honourable Members of this House, but in regards to responding to this question I think that it is one that would be best answered by the Honourable Second Official Member and unfortunately he is not here. I think it would be best, I cannot say why. The Honourable Second Official Member is here.

The Speaker: Honourable Member from East End if you could repeat your question so that the Honourable Second Official Member could assist with the answer.

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

My question was to do with the problems that we are having with this Bill; the issues that are being experienced with it and the reason it has not been assented to. My question is: What are those reasons if there are legal technical reasons because of the way the Bill was drafted or is it from a personal perspective within the hierarchy system as to how the workings of the Bill eventually when it gets into Law, will operate? That was my question.

The Speaker: The Second Official Member, since you are now present, the Third Official Member has asked for your assistance in the answering of that question. Could you assist, please?

Hon. David F. Ballantyne: Mr. Speaker, at the informal meeting to which reference was made, a two paged document was circulated to all present which set out in some detail the concerns, the reasons for the concerns, and the suggested solutions; and while I do not have that document in front of me if it can be provided I will certainly go into the specifics.

The issues that were raised included measures to secure the independence of the Judiciary in line with the Constitution. These measures were relating to the fettering potentially of discretions by not just the Attorney General, but possibly others and in particular, section 39(1) of the Law, which might have that effect.

That is a brief summary, Mr. Speaker, of the issues. I think in order to do more justice to the question I would require to have the document in front of me, but since all Members have already received this document they would already have that information and would know from it what the nature of the concerns was. Thank you.

The Speaker: Are there any further supplementaries? If there are no further supplementaries we will move along to the next order of business.

STATEMENTS FROM MEMBERS OF THE GOVERNMENT

Deferral of Bills

The Monetary Authority (Amendment) Bill, 2002
The Banks and Trust Companies (Amendment)
Bill, 2002

The Mutual Funds (Amendment) Bill, 2002
The Insurance (Amendment) Bill, 2002
The Money Services (Amendment) Bill, 2002
Companies Management (Amendment) Bill, 2002
The Public Management and Finance (Amend-
ment) Bill, 2002

The Speaker: The Honourable Third Official member, I understand that there is going to be a deferral of some of the Bills.

Hon. George A. McCarthy: Mr. Speaker, I will be requesting a deferral of the Monetary Authority Bill and the related Bills until a later sitting of this Honourable House in accordance with the relevant Standing Orders.

Mr. Speaker, none of the pieces of legislation that have been circulated in regards to the Monetary Authority imposes any compliance requirements upon the financial industry; simply, the transfer, the decision making mechanisms from Executive Council to the Board of Directors of the Monetary Authority.

It is for this reason primarily why the financial community was not consulted. Honourable Members of this Legislative Assembly and the community at large are very much aware that for quite some time, since the inception of the Monetary Authority, there was always a call and an undertaking was given that the Monetary Authority would move to a position of independence whereby decisions in respect of the granting of licenses and other matters would not be made by Executive Council, but by the Monetary Authority through its Board.

Mr. Speaker, the Government values the relationship with the financial industry and this has been enshrined in the practices that have emerged in terms of the Private Sector Consultative Committee; the National Advisory Council; and wherever the financial industry will be impacted by any form of onerous requirements or any requirements emerging from legislation that is circulated or being developed, the financial industry is normally consulted. Simply, Mr. Speaker, this is what the financial industry has been asking for; that when it comes on to decisions in respect of the granting of licenses that these decisions should not be made by Executive Council, they should be made by an independent board. This is what the primary piece of legislation deals with.

The other pieces of legislation are connected to the primary piece where reference is made Executive Council and such references will be substituted to the Board of Directors of the Monetary Authority. It is

for this reason, Mr. Speaker, and I am aware of the commitment that has been given by the Leader of Government Business and the Government as a whole, that when it come on to legislation or any requirements imposing any expectation upon our financial industry that they will be consulted.

That commitment is still being observed; it will not be deviated from. What has been brought here by way of these legislations is just to regularise and put in place a prior commitment that has been given by this Government and pass Governments, that the Monetary Authority would be made an independent agency to deal with matters relating to the financial industry. It is for this reason why these Bills are being brought.

The Government is very much aware of the importance of our financial industry to the community at large, the employment opportunities that are provided, the revenue that is generated to the community at large, and the Government would not do anything in order to jeopardise this. There is this total commitment and it will always be observed regardless how anyone else may want to think to the contrary. This commitment; it is a commitment that is of significance to the Government and will be observed.

The Speaker: Just for clarity, could you then state your looking to defer these Bills until a further sitting of this session.

Hon. George A. McCarthy: A further sitting, Mr. Speaker, to allow for Members of the financial industry to peruse the Bills and to satisfy themselves that the contents of the Bill are in-keeping with what I have said. So, therefore I ask that they be deferred to a later sitting of this meeting.

The Speaker: Can you just for clarity again, specify which Bills you are hoping to have deferred.

Hon. George A. McCarthy: Mr. Speaker, the Bills are:

- (i) The Monetary Authority (Amendment) Bill, 2002
- (ii) The Banks and Trust Companies (Amendment) Bill, 2002
- (iii) The Mutual Funds (Amendment) Bill, 2002.
- (iv) The Insurance (Amendment) Bill, 2002.
- (v) The Money Services (Amendment) Bill, 2002.
- (vi) Companies Management (Amendment) Bill, 2002.
- (vii) The Public Management and Finance (Amendment) Bill, 2002

Mr. Speaker, the Honourable First Elected Member for George Town is asking if I could specify a date. I would not want to do that immediately for the

reason that I . . . (*inaudible interjection*). Oh! I thought you meant a date, my apology.

While I am up, Mr. Speaker, I mentioned that Bill No. 10 will also be deferred as well. This is the Public management and Finance Bill, 2002, but that is for a separate reason. This is to allow for the amendments arising out of the recent discussions that were held with Honourable Members to be examined to make sure that those amendments are consistent with other provisions of the Bill.

The Speaker: Thank you for that explanation, Honourable Member. I wonder if you could state or another Member of Government could state whether it is their intention then to bring the other Bills that are on the paper, namely Bill No. 7 and 8. I think I have the apologies from the Minister responsible, or is it the intention to defer those Bills as well?

Hon. W. McKeever Bush: Mr. Speaker, as you have already apologised for the absence of the Honourable Minister for Community Affairs, his two Bills: The National Drug Council (Amendment) Bill, 2002 and The Adoption (Validation) Bill, 2002, will be deferred until Wednesday 17th July, 2002.

I would expect, Mr. Speaker that we would deal with No. 9 and No. 11, the Public Service Pensions (Amendment) Bill, 2002, and The Development and Planning (Amendment) (No. 2) Bill, 2002.

The Speaker: Honourable Leader you mentioned the Public Service Pension Bill; are we going to move forward with that in the absence of the Minister?

Hon. W. McKeever Bush: We will simply hold over until after lunch, he had an engagement, but we could move on to item 11, The Development and Planning (Amendment) (No. 2) Bill, 2002.

The Speaker: I understand that the Honourable Minister for Health has a motion to bring at this time.

Suspension of Standing Order 24(5)

Hon. Gilbert A. Mclean: Mr. Speaker, in accordance with Standing Order 86, I beg to suspend Standing Order 24(5) to enable me to bring a Government Motion before this House, being Government Motion No. 7 2002 entitled Health Services Fees and Charges (Amendment) Regulations, 2002.

The Speaker: I shall now put the question that Standing Order 24(5) be suspended to allow five clear days for Government Motions to be submitted to this Honourable House. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 24(5) suspended to allow five clear days for the Government Motions to be submitted before this Honourable House.

Suspension of Standing Order 46 (1) and (2)

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I beg to move the suspension of Standing Order 46 (1) and (2) to allow for the First Reading of The Development and Planning (Amendment) (No.2) Bill, 2002.

The Speaker: The question is that Standing Orders 45 and 46 (1) and (2) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 45 and 46 (1) & (2) suspended.

GOVERNMENT BUSINESS

BILLS

FIRST READING

The Development and Planning (Amendment) (No.2) Bill, 2002

The Speaker: The Bill is deemed to have been read a first time and set down for Second Reading

Suspension of Standing Order 46 (4)

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I beg to move the suspension of Standing Order 46(4) to allow for the Second Reading, Committee on the Bill and Reports on the Bill.

The Speaker: The question is that Standing Order 46(4) be suspended all those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46 (4) suspended.

SECOND READING

The Development and Planning (Amendment) (No. 2) Bill, 2002

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, the Development and Planning (Amendment) (No. 2) Bill, seeks to correct an anomaly which was picked up subsequent to the passage of the Development and Planning (Amendment) Law, 2002. The Bill seeks to amend the Development and Planning Law, 1999 (Revision).

Clause 1 provides the short title and commencement of the legislation. The Legislation will come into force immediately after the coming into force of the Development and Planning (Amendment) Law, 2002.

Clause 2 requires in respect of applications for certain types of development consent by certain specified persons irrespective of whether or not those persons reside in the Cayman Islands.

Clauses 3 and 4 respectively enable appeals against decisions of the Central Planning Authority and the Development Control Board by certain specified persons irrespective of whether or not those persons reside in the Cayman Islands.

Thank you, Mr. Speaker.

The Speaker: The Bill has been duly moved, does the Mover wish to speak thereto?

Hon. Linford A. Pierson: Mr. Speaker, the previous amendment, The Development and Planning (Amendment) Law, 2000, sought to regularise the situation, which existed under the Development and Planning Law 1999 (Revision) where anyone in the Islands could appeal against the decision of the Central Planning Authority or the Development Control Board, whether or not they had a personal or vested interest in the property being developed. This practice was abused and became a major nuisance not only to developers but also to my administration, which is in charge of the planning process.

Whilst the Development and Planning (Amendment) Law went a long way towards rectifying this problem, unfortunately it restricted appeals only to people living in Islands with a property within the 1500 feet radius of such property.

This No. 2 Amendment removes the restriction to those individuals living in the Cayman Islands and extends it to anyone, whether they are living in the Cayman Islands or abroad, who owns property within the 1500 feet radius. So, Mr. Speaker, it amends the Law in a way that will be fair to all concerns, whether or not they are living in the Cayman Islands.

Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? Does the Honourable Minister for Planning wish to exercise his right of reply?

Hon. Linford A. Pierson: Thank you, Mr. Speaker. I would just like to thank the Opposition for initially raising this problem with the Islands and to also thank all Members of the Honourable House for their tacit support.

The Speaker: The question is that a Bill shortly entitled The Development and Planning (Amendment) (No. 2) Law, 2002, be given a second reading. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The ayes have it.

Agreed: The Development and Planning (Amendment) (No.2) Bill, 2002 given a Second Reading.

Suspension of Standing Order 46 (1) and (2)

The Speaker: I have been informed that the Honourable Third Official Member will be dealing with Bill No. 9 on the Order Paper; The Public Service Pensions (Amendment) Bill, 2002.

[inaudible interjection]

The Speaker: Out of abundance of caution we will ask for the suspension of Standing Order 46 (1) and (2).

Hon. W. McKeeva Bush: Mr. Speaker, in order to take the Public Service Pension First Reading, I beg to move the suspension of the relevant Standing Order.

The Speaker: The question is that Standing Order 46 (1) and (2) be suspended. Those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46 (1) & (2) suspended.

FIRST READING

Public Service Pensions (Amendment) Bill, 2002

The Speaker: The Bill is deemed to have been read a first time and is set down for Second Reading.

Suspension of Standing Order 46 (4)

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the suspension of Standing Order 46 (4) to allow the Second Reading of the Public Service Pensions (Amendment) Bill, 2002, Committee on the Bills and Reports on the Bill.

The Speaker: The question is that Standing Order 46 (4) be suspended. Those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46 (4) suspended.

SECOND READING

Public Service Pensions (Amendment) Bill, 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of a Bill entitled The Public Service Pensions (Amendment) Bill, 2002.

The Speaker: The Bill has been duly moved, does the Mover wish to speak thereto?

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

This Bill seeks to amend the Public Service Pensions Law 1999 to provide for the making of regulations relating to the future payments of ex-gratia pensions to former Caymanian Civil Servants who did not qualify for pensions, but who had been employed in the Public Service for a period of 4 or more years. This Bill seeks to amend sections 5 and 16 of the Law, so as to confer power to the Governor to make such Regulations to prescribe qualifying criteria and detailing the process and manner in which ex-gratia pension application will be processed and granted. Currently the Law allows for the continuation of the payment of ex-gratia allowances awarded under the previous Law but does not allow for any applications for ex-gratia pensions to be considered. There are 32 ex-gratia pension applications awaiting the outcome of this Bill.

This Bill also seeks to amend the Law to provide for the entitlement and payment of pension benefits to those former Caymanian Civil Servants who were employed in permanent and pensionable posts within the public sector between 1940 and 31 December 1982, and who had retired or resigned on or before the 31 December 1982 after completing a minimum of 10 years of continuous service. This amend-

ment is necessary as the amending pension legislation implemented in 1982 introduced the 10 year vesting provision but only made it applicable to Civil Servants who retired or resigned from the Public Service since 1982.

Mr. Speaker, the Bill has been circulated to Honourable Members and I commend this Bill to this Honourable House.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Mr. Speaker, back in, I think it was in 2000, a resolution was moved by myself and seconded by the Minister of Education to get an amendment to offer some assistance to Public Servants who had not been employed for the 10 years but has made some tenure in the Service. Mr. Speaker, today's Bill assists those people and it goes further and I only rise to say that this is long overdue but I am happy to see it before the House today.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? If no other Member wish to speak does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: Mr. Speaker, to say thanks to all Honourable Members for their support.

The Speaker: The question is that a Bill shortly entitled The Public Service Pensions (Amendment) Law, 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Public Pensions (Amendment) Bill, 2002 given a Second Reading.

The Speaker: Since it has now reached the hour of 12.30, is it the wish of the House to now take the lunch break? We will now suspend proceedings for lunch to return at 2.15pm.

Proceedings suspended at 12:33 p.m.

Proceedings resumed at 2:33 p.m.

The Speaker: Proceedings are resumed. Please be seated.

The House will now go into Committee to consider the Bills.

COMMITTEE ON BILLS

House in Committee at 2:36 pm

The Chairman: Please be seated. The House is now in Committee. With the leave of the House may I assume that as usual we should authorise the Honourable Second Official Member to correct minor errors and such the like in these Bills.

Would the Clerk please take the Bill and read the clauses?

The Development and Planning (Amendment) (No. 2) Bill, 2002

The Clerk:

Clause 1 Short title and commencement.
 Clause 2 Amendment of section 16(51) and (52) of the Development and Planning Law (1999 Revision). Provisions for development appeals.

The Chairman: The question is that clause 1 and do stand part of the Bill. All those in favour please say Aye. Those against No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

The Clerk: A Bill to amend the Development and Planning Law (1999 Revision) to widen the category of persons capable of appealing against decisions of the Central Planning Authority and the Development Control Board and to make provisions for related matters.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Public Service Pensions (Amendment) Bill, 2002

The Clerk:

Clause 1 Short title.
 Clause 2 Amendment of section 5 of the Public Service Pension Law (1999 Revision).
 Clause 3 Amendment of section 16, disbursement from funds.
 Clause 4 Amendment of section 28, applicability.
 Clause 5 Amendment of section 29. Defined benefits eligibility.

The Chairman: The question is that clauses 1 through 5 do stand part of the Bill. All those in favour please say Aye. Those against. No.

Ayes.

The Chairman: The ayes have it.

Agreed: Clauses 1 through 5 passed.

The Clerk: A Bill for a Law to amend the Public Service Pensions Law 1999 to provide for the making of regulations relating to the payment of ex-gratia pensions to provide pensions for certain former Government employees and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill. Is there any debate or any questions? If there is no debate or questions, the question is that the title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: The question is that the Bills be reported to the House. All those in favour please say aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: That the Bills be reported to the House.

House Resumed

The Speaker: Proceedings are resumed.

REPORTS ON BILLS

The Development and Planning (Amendment) (No. 2) Bill, 2002

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I have to report that a Bill shortly entitled The Development and Planning (Amendment) (No. 2) Bill, 2002 was considered by a committee of the whole House and passed without amendment.

The Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Public Service Pensions (Amendment) Bill, 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to report that a Bill shortly entitled the Public Service Pensions Amendment Bill 2002 was considered by a committee of the whole House and passed without amendment.

The Speaker: The Bill has been duly reported and is set down for a Third Reading.

Suspension of Standing Order 47

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I move the suspension of Standing Order 47 in order for us to take the Third Readings.

The Speaker: The question is that Standing Order 47 be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The ayes have it.

Agreed. Standing Order 47 suspended.

THIRD READINGS

The Development and Planning (Amendment) (No. 2) Bill, 2002

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I beg to move that the Development and Planning (Amendment) (No. 2) Bill, 2002 be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled the Development and Planning (Amendment) (No. 2) Bill, 2002 be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The ayes have it.

Agreed: The Development and Planning (Amendment) (No. 2) Bill, 2002 given a Third Reading and passed.

The Public Service Pensions (Amendment) Bill, 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that a Bill entitled The Public Service Pensions (Amendment) Bill, 2002 be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled The Public Service Pensions (Amendment) Law, 2002 be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Public Service Pensions (Amendment) Bill, 2002 given a Third Reading and passed.

MOTIONS

GOVERNMENT MOTION NO. 6/02

The Cinematograph (Amendment) Rules, 2002

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, Government Motion No. 6/02, The Cinematograph (Amendment) Rules, 2002 reads:

“WHEREAS section 8 of the Cinematograph Law (1995 Revision) provides that the Authority may, with the advice and consent of the Legislative Assembly, make such Rules as may be deemed expedient for the matters specified in the section;

“AND WHEREAS pursuant to the said section a draft of the Cinematograph (Amendment) Rules, 2002 has been prepared and presented to this Honourable House for its advice and consent as to the making thereof;

“BE IT NOW THEREFORE RESOLVED THAT this Honourable House do advise and consent to the making of the said Cinematograph (Amendment) Rules, 2002.”

The Speaker: The Motion has been duly moved. Would the Minister like to speak thereto?

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

I am pleased as the Minister responsible for Communications to have tabled the draft legislation and would now wish to make a few comments on the Motion and the Regulations.

The current legislations that governs the operations of Cinematographic exhibitions is the Cinematograph Law (1995 Revision). The Cinematograph Rules 1995 and the Sunday Trading (1995 Revision).

Under those Laws cinemas have been limited to doing business Monday through Saturday.

The Government is recommending that those Laws and rules be amended to permit establishments that are licensed to conduct public Cinematographic exhibitions to show films that have been designated by the British or American film censorship authorities as suitable for viewing by children age 16 and younger. Therefore, only movies that are rated G or PG will be shown at the current Marquee, cinema or any further establishments on a Sunday. The Government's intention is to permit movies to be shown that are strictly for children and family entertainment. There will be no movies that are rated R shown on a Sunday.

Mr. Speaker, I initially had reservations about the Cinema opening on a Sunday but following my discussions with members of the public, which included members of the clergy, I am now firmly convinced that this move will not be a detriment in any way to the social fabric of the country. It is my belief that the opening of Cinemas on a Sunday can be a positive alternative for Cayman's families and young people seeking recreational activities. Going to a movie as a family can be a positive and an enriching experience. I know there have been comments made regarding showing movies on a Sunday but in all fairness and conscience I cannot see where a G or PG rated movie can be detrimental to our young people or to our people as a whole.

I have visited homes where I have seen children watching movies on television that perhaps are not fit for children of that age. I am satisfied that under these controlled circumstances that movies would have to be within the G or PG category in order for them to be shown. Also it amazes me how some of the individuals in the community find that going to a movie on a Sunday to watch a G or PG movie is in the same category as, for instance, going to a bar or even watching the X rated movies at home. I am not going to suggest, Mr. Speaker, that that is the reason for this; it is not, I am just drawing a line to show that even in the best controlled homes you find that children, if they want to do things that they know they should not, will do them.

Mr. Speaker, I believe that if families are kept together, are united, and if the mother and father are able to control the younger members of the family, that we will all benefit in the long run. In addition to this we are moving into a more modern age. We have our tourists who visit here and even our people have suggested that on a Sunday evening they would like very much to be able to go to places other than a restaurant, or maybe church on a Sunday evening, to find entertainment elsewhere. So, Mr. Speaker, I will wait to what comments if any, will be made on this Bill before I make any further comments. At this point I will leave it and see what other comments will be made before I make my reply. Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? If no Member wishes to speak does the Mover wish to exercise his right of reply?

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

The timing is very important to the showing of these movies. I strongly feel that it must be in the afternoon as permission was requested for afternoon matinee. So, Mr. Speaker, I will not be fixing a definite time [say from 2 to 6 at this point] but I can give the House the assurance that the application was in respect of afternoon movies and any permission that is given will contain that. If necessary I will discuss this matter further with our legal advisor, the Second Official Member to determine whether it is important that we include in the Law [even if I have to bring an amendment] a precise time when this will be done. However, most definitely it will not be permissible in the morning anytime up to 2 o'clock, will not be permissible. Thank you, Mr. Speaker.

The Speaker: The question is that this Honourable House do advise and consent to the making of the said Cinematograph Amendment Rules 2002. All those in favour please say Aye. Those against, No.

Ayes.

Ms. Edna M. Moyle: Abstain

The Speaker: Madam Clerk, can we have a division please?

Mr. D. Kurt Tibbetts: Mr. Speaker, for those who did not hear, although I know that you did, could we have a division please, Sir?

Hon. Linford A. Pierson: Mr. Speaker, if I may—I was just consulting with the Legal Department and I wondered if you would permit, say, 5 or ten minutes so that we can discuss a specific matter to do with this Motion before you take the Division.

The Speaker: At your request I will now allow a short suspension. We will suspend for 10 minutes.

House Suspended at 3:00 pm

(to consult with the proper authorities for a time to be set in the Regulations)

House Resumed at 3:16 p.m.

The Speaker: Proceedings are resumed.

Just before we took the break there was a call for a division on the question. The Minister responsible for Planning has asked for a moment to do a clarification, which he thinks may assist prior to the Division being taken so I will now give him permission.

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

On further consideration of the amendments it is noted that it would be better, out of an abundance of caution, if we filled in a time for the matinee or movie, but since the Third Reading has already been passed it will not be possible for me to do that this afternoon. It is my intention to bring back a short amendment stipulating that the time will be between 2 pm and 9 pm. I hope to do that during this meeting, perhaps at the next sitting.

I want to thank all Members for assisting with the process thus far.

The Speaker: Could the Clerk now call for the Division on the question please.?

The Clerk:

Division No. 4/02

Ayes: 7

Hon. W. McKeever Bush
 Hon. Linford A. Pierson
 Hon. Roy Bodden
 Hon. Gilbert A. McLean
 Hon. Donovan W. F. Ebanks
 Hon. George A. McCarthy
 Capt. A. Eugene Ebanks

Abstentions: 3

Mr. D. Kurt Tibbetts
 Ms. Edna M. Moyle
 Mr. V. Arden McLean

Absent: 6

Dr. the Hon. Frank S. McField
 Hon. David F. Ballantyne
 Mr. Rolston M. Anglin
 Mr. Alden M. McLaughlin, Jr
 Mr. Lyndon L. Martin
 Mr. Anthony S. Eden

The Speaker: The result of the division is seven Ayes, three Abstentions, six absent.

The Motion is passed.

Agreed by majority: Government Motion No. 6/02 passed.

ADJOURNMENT

The Speaker: Since we have completed all the business on the Order Paper, I will call for the motion for the Adjournment.

Hon. W. McKeever Bush: Mr. Speaker, I move the adjournment of this Honourable House until Wednesday, 17 July 2002 at 10 am.

The Speaker: The Question is that this House do now adjourn until 10 am Wednesday, 17 July 2002. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 3:20 pm the House stood adjourned until 10:00 am Wednesday, 17 July, 2002.

OFFICIAL HANSARD REPORT
WEDNESDAY
17 JULY 2002
11.12 AM
Seventeenth Sitting

The Speaker: I will ask the Elected Member from East End to grace us with prayers.

PRAYERS

Mr. V. Arden McLean: Let us pray.

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

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

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

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

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

Proceedings resumed at 11:15 am

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

Apologies

The Speaker: I have received apologies from the Honourable Speaker and the Second Elected Member from the district of West Bay who are away on Government business. I have also received apologies from the Second Elected Member for the district of George Town, who is also away on Government busi-

ness; the Third Elected Member from Bodden Town, who is away for family reasons and apologies for the absence of the Second Official Member who will be away today.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**Health Services (Fees and Charges) (Amendment)
Regulations, 2002**

The Speaker: The Honourable Minister for Health Services, District Administration and Agriculture.

Hon. Gilbert A. McLean: Mr. Speaker, I beg to lay on the Table of this Honourable House the Health Services (Fees and Charges) (Amendment) Regulations, 2002.

The Speaker: So ordered.

Would the Honourable Minister wish to speak thereto?

[Inaudible response]

**Cayman Islands Stock Exchange Limited Financial
Statements for the year Ended the 31 December
1999, 31 December 2000 and 31 December 2001**

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to lay on the Table of this Honourable House the financial statements of the Cayman Islands Stock Exchange Limited Financial Statements for the year ended the 31 December 1999, 31 December 2000 and 31 December 2001.

The Speaker: So ordered.

Would the Honourable Member wish to speak thereto?

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

In accordance with section 14(8) of the Stock Exchange Companies Law 2001, the financial statements have just been tabled. I am pleased to say that since the establishment of the Stock Exchange in June 1997, the Exchange has validated the original premises under which it was created, that is, that a Stock Exchange would compliment well the range of services offered by the Cayman Islands Financial Services Industry and, in particular, the Mutual Funds

and Specialist debt; and that there was room in the international market for an Exchange that could provide a responsive high quality service to institutional clients.

Mr. Speaker, a few figures will demonstrate what I have just said. At the end of 1998 the Exchange had 130 listings and a market capitalization of US\$12 billion. As of the 5 July 2002 it has 674 listings and a market capitalization of \$39.5 billion. Over the period 1999 through 2001, the period covered by the financials being tabled, the Exchange posted average annual growth of 51 per cent in listings and 49 per cent in market capitalization. As impressively, the Exchange has successively reduced its government grant. At the inception of 1997, the grant was \$1.62 million. In 2002 it is just under \$200,000 and expected to remain at this level for 2003. It has been an explicit aim of the Exchange to reduce, if not eliminate the need for grant funding.

During the period 1999 through 2001 the Exchange became admitted to the London Stock Exchange. This list of approved organizations became an affiliate member of the International Surveillance Group, a self-regulatory organization for Stock Exchanges and became a member of the European Securitization Forum. Also, during this period, the Exchange began sponsorship of two Caymanian staff members for tertiary level studies.

Mr. Speaker, results like these require commitment and expertise. The Exchange has both of these in the form of the staff complement of nine, headed by the Chief Executive Officer, Mrs. Valitier Dorsky and the Cayman Islands Stock Exchange Board Chairman, Mr. Anthony Traverse. Special mention should also be made of Ms. Drummond, the Assistant Financial Secretary who is the Secretary to the Stock Exchange Council.

I thank you, Mr. Speaker.

The Speaker: Thank you.

The Honourable Minister for Planning.

The Cinematograph (Amendment) (No. 2) Rules, 2002 and The Sunday Trading (Amendment) (No. 2) Order, 2002

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

I beg to lay on the Table of this Honourable House, The Cinematograph (Amendment) (No. 2) Rules, 2002 and The Sunday Trading (Amendment) (No. 2) Order, 2002.

The Speaker: So ordered.

Would the Honourable Minister wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Mr. Speaker. I would, however, like to reserve my comments when I am dealing with Government Motion No. 8.

The Speaker: Since we have passed the hour of 11 am, could I have the Motion for the suspension of Standing Orders 23(7) and (8)?

Suspension of Standing Order 23 (7) and (8)

Hon. Linford A. Pierson: Mr. Speaker, I beg to move the suspension of Standing Order 23(7) and (8) so that questions can be taken at this time.

The Speaker: The question is that Standing Order 23 (7) and (8) be suspended to allow Question Time to continue beyond 11 am. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23 (7) and (8) suspended in order for Question Time to continue beyond 11:00 am.

The Speaker: The Elected Member from North Side.

**QUESTIONS TO HONOURABLE
MINISTERS AND MEMBERS**

Question No. 51

The Speaker: The Elected Member for North Side.

No. 51: Ms. Edna M. Moyle asked the Minister responsible for the Ministry of Community Services, Women Affairs, Youth and Sports, when will work on the Hutland Park in North Side recommence and what is the expected date of completion.

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Work on the Hutland Park Commenced on the 24 June 2002. The Government intends to do some filling of the site and Dart Management, through its agreement with the Government for the construction of the Parks, will commence work in July, and the Park will be completed by the end of September.

The Speaker: The Elected Member from the district of North Side.

Supplementaries

Ms. Edna M. Moyle: Thank you, Mr. Speaker.

I wonder if the Honourable Minister would say if there has been a policy decision that now includes the Hutland Park in the agreement with Dart Management.

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, that is a positive.

The Speaker: The Elected Member from North Side.

Ms. Edna M. Moyle: Thank you, Mr. Speaker.

This is really not a question but it is information for the Honourable Minister. I have been reliably informed by someone in the district who met with the Dart Management representatives [that the person] was told that the Hutland Park will only be completed if there are funds left over from the East End Park. I would appreciate if he would look into this and make certain that the Hutland Park will be completed.

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, we will make sure that the Parks in East End, North Side, Bodden Town and George Town are completed, just as we have made sure that the Park in West Bay was completed.

The Speaker: If there are no further supplementaries we will move on the next order of business.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received no notice of any statements.

Could I have a motion for the suspension of Standing Order 46(1) and (2)?

Suspension of Standing Order 46 (1) and (2)

Hon. Linford A. Pierson: Mr. Speaker, I beg to move the suspension of Standing Order 46(1) and (2) so that business can continue in the House.

The Speaker: The question is that Standing Order 46(1) and (2) be suspended. All those in favour please say Ayes. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46 (1) & (2) suspended.

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

The National Drug Council (Amendment) Bill, 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for Second Reading.

The Adoption (Validation) Bill, 2002

The Speaker: The Bill was deemed to have been read a first time and set down for Second Reading.

Could I have a motion for the suspension of Standing Order 46(4)?

Suspension of Standing Order 46(4)

Hon. Linford A. Pierson: Mr. Speaker, I beg to move the suspension of Standing Order 46(4) so that the Second Readings can be taken at this time.

The Speaker: The question is that Standing Order 46(4) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46(4) suspended.

SECOND READINGS

The National Drug Council (Amendment) Bill, 2002

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, I would like to introduce this amendment to the National Drug Council Law (2001 Revision), by saying that it is a very simple exercise that needed to be done in order to legally complete the transfer of The National Drug Council from the Ministry of Health to the Ministry of Community Services. This was a decision that the United Democratic Party made in November of last year, in order to facilitate a more holistic approach to community services and attempts to gain the co-operation and collaboration, which is necessary between all of the different agencies that are involved with social problems.

Mr. Speaker, this amendment will also allow the term 'Minister' to be used, which means the Minister or the Member of the Executive Council for the time being to be charged with responsibility for the subject matter of the Law. This means, if it was decided that Health should have this particular subject or if Education would have this particular subject, it would be very easy to move it around, simply because it was not tied in law to any particular portfolio. The

reason for this, from the very beginning we understand that the issue of drugs or substance abuse and use is not necessarily the result, in most cases, of any kind of medical considerations nor are the solutions to the issues of substance abuse and use, medical prescriptions. In most cases we have found that the use of drugs is the result of other social and psychological issues that are best dealt with separately from the prescriptions that we use to treat people who are medically ill.

We found that the Law, as it was originally enacted, fail to take into account the fact that an agency such as the National Drug Council, which is a multi-disciplinary agency with stakeholders from many different professional backgrounds could come under any of the portfolios.

So, we are submitting this amendment in order to facilitate now and in the future the possibility of this agency as a multi-disciplinary agency coming under any of the portfolios.

The Speaker: The Bill has been duly moved. Does any other Member wish to speak? Does the Honourable Minister wish to exercise his right of reply?

Dr. the Hon. Frank S. McField: Mr. Speaker, I would just like to thank all Members for supporting this Bill, especially the Opposition. It is not often that they can find something that is so agreeable and it is short, sweet and to the point. Thank you.

The Speaker: The question is that a Bill shortly entitled, The National Drug Council (Amendment) Bill 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The National Drug Council (Amendment) Bill, 2002 given a Second Reading.

The Adoption (Validation) Bill, 2002

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, I wish to move a Bill for a Law to Validate the Decisions, Acts and Proceedings of the Adoption Board from the 8 July 1999 to the 1 January 2002 and for Incidental and Connected Purposes.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Dr. the Hon. Frank S. McField: Mr. Speaker, just to say that as the Bill has stated it is to give validity to the decisions that were made during that period. The

Government would definitely appreciate the support of all Members of this House with regards to this Bill.

The Speaker: Does any other Member wish to speak? If not, does the Honourable Minister wish to exercise his right of reply?

Dr. the Hon. Frank S. McField: Mr. Speaker, just to say, again, that we thank all the Members of the House for their support of this Bill to validate the Decisions, Acts and Proceedings of the Adoption Board from the 8 July 1999 to the 1 January 2002 and for Incidental and Connected Purposes.

The Speaker: The question is that a Bill shortly entitled, The Adoption (Validation) Bill, 2002 be given a Second Reading. All those in favour please say Aye. Those against, No

Ayes.

The Speaker: The Ayes have it.

Agreed: The Adoption (Validation) Bill, 2002 given a Second Reading.

The Speaker: The House will now go into Committee to consider the Bills.

House in Committee

COMMITTEE ON BILLS

The Chairman: Please be seated. The House is now in Committee.

The National Drug Council (Amendment) Bill, 2002

Clauses 1 and 2

The Deputy Clerk:

Clause 1	Short title
Clause 2	Amendment of section 2 of the National Drug Council Law (2001 Revision) – definitions.

The Chairman: The question is that Clauses 1 and 2 do stand part of the Bill. If there is no debate I will put the question. The question is that Clauses 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it

Agreed: Clauses 1 and 2 passed

The Clerk: A Bill for Law to Amend the National Drug Council Law (2001 Revision) to Redesignate the relevant Minister for the Purposes of the Law

The Chairman: The question is that the Title do stand part of the Bill. If there is no debate I will put the question. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Adoption (Validation) Bill, 2002

The Deputy Clerk:

Clause 1	Short title
Clause 2	Validation

The Chairman: The question is that Clauses 1 and 2 do stand part of the Bill. If there is no debate I will now put the question. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed

The Clerk: A Bill for Law to Validate the Decisions, Acts and Proceedings of the Adoption Board from the 8 July 1999 to the 1 January 2002 and for Incidental and Connected Purposes

The Chairman: The question is that the Title do stand part of the Bill. If there is no debate . . .

Ms. Edna M. Moyle: Mr. Chairman, if I may, just for clarity. Maybe I am wrong but it says, "**This Law may be cited as the Adoption Validation Law**". Should this not be the Adoption Validation (Amendment) Law?

If the Minister would, just explain if we are amending the Adoption Law to give . . .

Dr. the Hon. Frank S. McField: Mr. Chairman, this is a separate Law. This is not an amendment to the Adoption Law.

The Chairman: If there is no further debate, I will now put the question that the title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: That concludes proceedings in Committee. The House will now resume.

Agreed: That the Bill be reported to the House.

House Resumes

REPORTS ON BILLS

The Speaker: Please be seated. The House is now resumed.

The Honourable Minister for Community Services.

The National Drug Council (Amendment) Bill, 2002

Dr. the Hon. Frank S. McField: Mr. Speaker, I have to report that a Bill entitled, A Law to Amend The National Drug Council (Amendment) Law (2002 Revision) to re-designate the relevant Minister for the purpose of the Law, was considered by a Committee of the whole House and passed without amendment.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

The Honourable Minister for Community Services.

The Adoption (Validation) Bill, 2002

Dr. the Hon. Frank S. McField: Mr. Speaker, I have to report that a Bill for a Law to validate the Decisions, Acts and Proceedings of the Adoption Board from the 8 July 1999 to the 1 January 2002 and for Incidental and Connected Purposes, was taken before a Committee of the whole House and passed without amendment.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

Could I have a Motion for the suspension of Standing Order 47?

Suspension of Standing Order 47

Hon. Linford A. Pierson: Mr. Speaker, I beg to move the suspension of Standing Order 47 to enable the Third Readings on the two Bills.

The Speaker: The question is that Standing Order 47 be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 47 suspended.

THIRD READINGS

The National Drug Council (Amendment) Bill, 2002

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, I beg to move that a Bill shortly entitled for a Law to Amend The National Drug Council Law 2001 Revision to Re-designate the Relevant Minister for the Purpose of the Law, be given a Third Reading and passed.

The Speaker: The question is that A Bill shortly entitled, The National Drug Council (Amendment) Bill 2002 be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The National Drug Council (Amendment) Bill, 2002 given a Third Reading and passed.

The Adoption (Validation) Bill, 2002

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, I beg to move that a Bill shortly entitled, The Adoption (Validation) Bill, 2002 be given a Third Reading and passed.

The Speaker: The question is that A Bill shortly entitled, The Adoption (Validation) Bill, 2002 be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Adoption (Validation) Bill, 2002 given a Third Reading and passed.

MOTIONS

GOVERNMENT MOTION NO. 7/02

The Health Services (Fees and Charges) (Amendment) Regulations, 2002

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Mr. Speaker, I beg to move Government Motion No. 7/02 titled, Health Services (Fees and Charges) (Amendment) Regulation 2002 which reads –

“BE IT RESOLVED THAT the attached Health Services Fees and Charges (Amendment) Regulations 2002 be affirmed by the Legislative Assembly pursuant to the provisions of section 13 (3) of the Health Services (Fees) Law (2002 Revision)”.

The Speaker: The question is that the attached Health Services (Fees and Charges) (Amendment) Regulations 2002 be affirmed by the Legislative Assembly pursuant to the provisions of section 13(3) of the Health Services Fees Law (2002 Revision).

The Motion is open for debate. Does the Minister wish to speak thereto?

Hon. Gilbert A. McLean: Thank you, Mr. Speaker.

I find myself in a relatively short period of time having once again to come to this Honourable House to bring a matter before it, which does not amount to readily acceptable news. However, it is my duty to do since being charged with the subject of Health Services. In this particular instance it relates to an increase of the fees which are charged by the Government hospital, or perhaps a more current term, the Health Services Authority.

Mr. Speaker, on the 7 January of this year I brought a Motion to this Honourable House for the first phase of a health fees increase. It was mentioned at that time that a further increase was planned for the 1 April 2002. Honourable Members will know that one of the areas where it was expected that there would be an increase in revenue was from the Health Services Fees. Indeed, the budget reflected this amount and due to the fact that there has been a delay, accordingly the revenue which was projected was not collected.

The Health Fees Regulation 2002, were approved by the Members of this House and they came into effect on the 14 January of this year. Mr. Speaker, from my statement, in phase one there would be an overall increase of 30 per cent of the present fees and charges and in the second phase it was intended that the new fees would approximate the cost of providing these services. It seems that the Health Insurance Industry used this as an opportunity to dramatically increase health insurance premiums. This brought such an outcry from the public that the fee increases in the second phase was deferred pending the completion of an actuarial study by consultants, KPMG on the likely impact of further health fee increases on health insurance premiums. The Draft Report on the study has been received and it would appear that the impact of health fees increases in the standard health insurance contract, which is mandatory under the Health Insurance Law 1997, would not warrant such dramatic premium increases.

I will have more to say to this Honourable House on this matter when the Final Report has been received. I have given an undertaking earlier in this Meeting of the House to Members that I will make this

Report available as soon as possible to all Members of this House. I invite them to carry on in the Select Committee for us to reach a point where we can correct some of the glaring problems in the Health Insurance Law, which allows insurance companies virtually unfettered privilege to increase fees at will.

Mr. Speaker, while the Draft Report is not finalized, it does have findings that are reassuring and on the strength of this, the next round of fee increases is recommended. Fee increases are proposed primarily to Schedule 1 of the Health Services Fees and Regulations 2002. They include two new fees for day treatment of \$150 and acute treatment per day of \$200. All these fees are set out in the summary which I have circulated to Honourable Members. The purpose of circulating this summary is that Honourable Members will see overall there are 37 areas where fees have been adjusted or increased. Members will see that in some instances it is like changing a fee of \$10 to \$15 and \$25 to \$40. In other instances, on the highest scale, fees from \$350 to \$600, and so on. I would bring to the attention of Members that in the first fee increase some of the fees, which were not charged, were included in the Schedule and were set down at the cost to the hospital of delivering such services. Those fees have not been increased again; they have simply remained as they were and the summary shows this situation.

Mr. Speaker, there are no proposed increases for dental, ophthalmology and psychological services. This further increase along with fee increases for specialist services are not prescribed in the Regulations, but instead are calculated according to the services provided. Laboratory, radiology, pharmacy, medical supplies, physiotherapy and procedures conducted at specialists clinics were intended to enable the Health Services for the first time, in approximately ten years, to match the cost of providing these services.

As I mentioned earlier, the delay in the fee increases have resulted in loss of revenue. The Honourable Financial Secretary addressed this issue in his response to a Parliamentary Question on the 28 of last month. Mr. Speaker, one can see how market forces can at times, positively and negatively impact the economy as well as sources of revenue for the Government. This is a difficult balancing act when the Government's prime consideration is and must be, what is in the best interest of the residents of these Islands.

I would like to make the point at this time that when it comes to insurance payments the fee increases at the Hospital would only affect insurance companies if indeed the people covered by their insurance actually went to the Hospital for service. There are dozens of other places with doctors where patients do go. Again, I contend that the increase which took place was not warranted and was unjustified. Only today a Member of this House provided me with a copy of a notice from his insurers telling him that he could expect an increase as of August in his

family plan and that plan is increasing from \$505.82 to \$721.21, a difference of \$215.39 per month. So, again it goes on and on. However, it lies within the power of the Members of this House that we can collectively work to set down parameters whereby we the people can have health insurance as the Law demands and mandates, and the insurance companies can charge a fee whereby they can make a profit as they should be allowed to do, but it should be within a range that is sensible and affordable.

Mr. Speaker, there is another amendment which is proposed in the Motion before this Honourable House and I will simply make mention of it. There is a further amendment which proposes that the four-hour notice of inability by the patient to keep an appointment be increased to 24 hours and the administrative fee for failing to do so has been previously set at \$35. This means that the scheduling which takes place for patients does require that a person should keep that appointment or the Hospital stands to lose should that person not turn up. Therefore, what is being requested is that if a person cannot keep the appointment, they should notify the Hospital 24 hours ahead of time so that other persons can be slotted in; that is the person who might have been half an hour or an hour scheduled for a later appointment.

Mr. Speaker, I would like to speak to two aspects: One is what financial effect do we anticipate from the further health fee increases, and the other concerns the passing of the Health Services Authority Law 2002; how health fee increases will be dealt with hereafter.

The Health Services Budget is \$44,140,000 and of this \$5,270,000 is provided for overseas referrals of those persons for whom Government provides this benefit. Another is \$1,978,000 provided for public health programmes for which no fee is charged, and an amount of \$3,070,000 to meet the cost of operating the Faith Hospital. The remaining amount of \$33,000,822 is intended to be covered by the following:

1. The fee increases that were approved in January 2002, an amount of \$3,001,409.
2. The proposed fee increases from August 2002, an amount of \$4,726,215.
3. Increase in fees not specified in the health fees and charges regulation, for example, laboratory, radiology, et cetera, would add up to \$1,882,372.

Mr. Speaker, this is based on the total charges in 2001 and the 2001 utilization level amounting to \$22,239,613. These four amounts would add up to \$31,849,609 or 94 per cent of the cost of providing these services. The amount not covered by this increase would be \$1,972,000. This balance is still being worked through so that these other charges not yet cost-effective can be included in the next round of fee increases by the Health Services Authority at some future point in time; certainly, not again this year

and not again anytime too soon in the coming year. In fact, it is my expectation that the Health Services Authority being freed from the bureaucracy under which it operated and being given the opportunity to manage itself and to do those things which are practical and sound in management, there should be savings that are not now realized. This will certainly be my policy directive to the new Board, and I expect that there will be revenue derived from simply not having the same degree of expenditure because of savings and improvements through better management.

Under the Health Services Authority Law the Government will determine when the Health Services Authority will be able to make the next fee increases after those presently proposed now, before this Honourable House. Until that time the Health Services Fees and Charges Regulations presently laid would apply to the Health Services Authority and users of its service.

Mr. Speaker, I believe that we have come a long way in the short time over the past 7 to 8 months. Of course, the road to the Government's objective of ensuring access to high quality health services while keeping expenditure on those services within our means is a long one indeed. However, the longest journey always begins with the first step. We made that step in January this year. I believe that we now can make yet another step by approving the fee increases proposed and with the benefit of a new management structure I believe the Health Services can move forward into the 21st century in a greater reality than has been prior to these times.

Mr. Speaker, I recommend this Motion to Honourable Members.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? If no other Member wishes to speak, does the Mover wish to exercise his right of reply?

Hon. Gilbert A. McLean: Mr. Speaker, just to thank the Honourable Members of this House for their understanding of this situation of exactly what it is and what is being attempted, and for their tacit approval. Thank you.

The Speaker: The question is that the attached Health Services (Fees and Charges) (Amendment) Regulations 2002 be affirmed by the Legislative Assembly pursuant to the provisions of section 13(3) of the Health Services Fees Law (2002 Revision).

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

Ayes.

The Speaker: The Ayes have it

Agreed: Government Motion No. 7/02 passed.

The Speaker: Could I have a motion for the suspension of Standing 24(5)?

Suspension of Standing Order 24(5)

Hon. Linford A. Pierson: Mr. Speaker, I beg to move the suspension of Standing Order 24(5) to allow Government Motion No. 8/02, The Cinematograph (Amendment) (No. 2) Rules, 2002.

The Speaker: The question is that Standing Order 24(5) be suspended to allow the Government Motion 8/02 to be brought. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 24(5) suspended.

GOVERNMENT MOTION NO. 8/02

The Cinematograph (Amendment) (No. 2) Rules, 2002

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Thank you, Mr. Speaker. I beg to move Government Motion No. 8/02, The Cinematograph (Amendment) (No. 2) Rules, 2002, which reads as follows –

“WHEREAS section 8 of The Cinematograph Law 1995 Revision provides that the Authority may, with the advice and consent of the Legislative Assembly, make such rules as may be deemed expedient for the matter specified in the section;

“AND WHEREAS pursuant to the said section a draft of The Cinematograph (Amendment) (No. 2) Rules, 2002 has been prepared and presented to this Honourable House for its advice and consent as to the making thereof;

“BE IT THEREFORE RESOLVED THAT this Honourable House do advise and consent to the making of the said Cinematograph (Amendment) (No. 2) Rules, 2002”.

The Speaker: The question is that this Honourable House do advise and consent to the making of the said Cinematograph (Amendment) (No. 2) Rules, 2002.

The Motion is open for debate. Does the Minister wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

On Monday 15 July, The Cinematograph (Amendment) (No. 2) Rules, 2002, and the Sunday Trading (Amendment) Order, 2002, were passed by this Honourable House. However, no provision was

made in these amendments to specify a specific time period to restrict establishments engaged in the conduct of public cinematographic exhibitions on Sundays.

Mr. Speaker, the amendments now before the House seek to correct that omission and provides for a time limit being provided under the relevant rules and order. The Cinematograph (Amendment) (No. 2) Rules, 2002 and the Sunday Trading (Amendment) (No. 2) Order 2002 provides a restriction on all establishments engaged in the conduct of public cinematographic exhibitions to conduct business between 2 pm and 9 pm on Sundays. Further, such films are already restricted to G and PG ratings as designated by the British or American film censorship authorities as suitable for viewing by children age 16 years and under.

Mr. Speaker, I do not propose to say a lot on this since it is a very short amendment but would wish to, before taking my seat, acknowledge my grateful thanks to the First Legislative Counsel, Mrs. Myrtle Brant, for her efforts in preparing the necessary amendments at such very short notice. Also to say generally, commendations to the Legal Drafting Department on their ongoing efficiency in their drafting activities within that Department, from herself, the Senior Legislative Counsel and indeed to other members of her staff.

Mr. Speaker, with these few comments I commend this Motion to this Honourable House.

The Speaker: Does any other Member wish to speak? The Honourable Minister for Health.

Hon. Gilbert A. McLean: Thank you, Mr. Speaker.

I rise to offer my support to the amendment to The Cinematograph Law and that of the Sunday Trading Amendment (No.2) Order 2002.

I think it is worth recalling that several years ago there were two theatres in this country and they were about the only places that we as a people could go to enjoy some kind of leisure time activities and to see what was then known as very early movies; 'The Etched through the Days of Busta Crab' and 'Hop Along Cassidy', 'Al Fuzzy St. John' and 'Tarzan', done in black and white. Of those two theatres one used to show movies on Sunday night and that movie would bring out the most number of people, as I recall. I know of people from various districts who would come to George Town to attend. I remember as a young fellow, riding my bicycle with five or six of us boys from Bodden Town, to come down to those movies. That went on for some time until the Law was changed, which prohibited the showing of movies on Sunday. It was certainly strongly felt and believed that that occurred because in one instance the proprietor could do so and in the other instance there were forces affecting the other entity from showing on a Sunday night, therefore, the playing field was leveled, should one say, or the privilege was removed from one showing on a Sunday and the other not doing so.

Mr. Speaker, this change today moves very clearly towards what everyone talks about these days—rights and freedoms. I believe very much in this concept of rights and freedoms. Indeed, I am very happy to know that I stood for seeing a Bill of Rights in this country way back in 1993 when everyone in the House, other than me, voted against it. So, I do not see this as some frightening trespass against good, and that by amending this Law is creating some evil.

We have various religions in this country and most of them choose to worship on a Sunday and some, a minority, choose to worship on a Saturday. What I always take note of is that those who choose to worship on a Saturday all they ask for is that their right to worship on a Saturday be allowed. No request to restrict business from being carried on or whatever else; it is left to the consciences and the minds of the people who choose not to work on that day and instead worship on that day. We have a law which prohibits certain activities on Sunday, the first day of the week.

Mr. Speaker, I think—when looking at these matters rather than me shaking and quivering about what is religiously correct—on one hand, I prefer to think that what is religiously correct is that which is conceived in the minds of the people who choose whichever religion they will and choose their way of worship. It comes down to a question of liberty. Lord Denning, the famous jurist said about liberty. I quote: **“What matters is that each man should be free to develop his own personality to the full; the only restrictions upon this freedom should be those which are necessary to enable everyone else to do the same.”**

The Speaker: For the record could you give the source of that quotation to the *Hansard*?

Hon. Gilbert A. McLean: It is a quotation from Lord Denning and it is contained in the book, *'The Principle of Liberty'* by Michael Sartorius.

The Speaker: Thank you.

Hon. Gilbert A. McLean: Mr. Speaker, just make another quote here from this particular book, and this comes directly from the book itself: **“We should all be free to pursue our individual lives and happiness in whatever way we choose as long as we do not injure or dispossess others. This is the eternal law of social conduct, the fundamental principle of liberty instinctively familiar to us all”**.

Mr. Speaker, this Motion is one that should have come, as far as I am concerned, many years ago, because it may only offend someone if he takes offence to it in his mind. For whichever cinema, wherever it may be, is a building located some particular place in these Islands and that within it there are offered seats to members of the public who wish or do not wish to go to see a movie. It does not in any way

trespass on anyone's rights if they choose not to go, and if someone so chooses then they may.

It is issues like these that I feel very strongly about and I am fortunate that I have had occasion to study some history, particularly European history, Caribbean and South American history, et cetera. You can find occasions in history where some of the darkest and most fearsome times occurred because they were driven by religious zealots or religion, which could approve the inquisition, burning at the stake, breaking on the wheel, the wiping out of the Mayan and the Aztec Civilization. In the Caribbean the Arawaks were pretty much wiped out by people trying to convert these heathens, as they saw them. So, I have a very strong sense of the need for a society (I am speaking of the Caymanian society) to have a high degree of understanding and tolerance that recognizes individual liberties.

I think this is a question of liberty that we are dealing with here and not a question of some offence against the social order. If the social culture is one leaning towards a religious belief that Sunday must be a day that persons should not look at a movie, I suggest that that is not very good recognition of an individual's liberty or their human rights. I have heard different discussions on the talk show about this issue and I simply felt it necessary for me to express myself on this matter, and I certainly support this Motion. (*Inaudible comments in background*). As my friend says, people in this country spend almost every leisure minute transfixed to a television and you can believe that on Sundays they do not worry about whether they put x-rated, et cetera, on the TV—those people sit and watch it!

So, it is a question of freedom and liberty. I think that is the position the Government is taking and I have no hesitation in supporting this Motion. Also, I firmly believe that if the worst thing I do as a legislator is to allow families and so on the ability to go to a cinema with their children and watch a movie, then I really have not done too bad at all, particularly if a rated 'G' or 'PG' restriction has been placed on it.

So, Mr. Speaker, I just felt compelled to offer those few remarks on this issue. I thank you.

The Speaker: Does any other Member wish to speak? The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, I would just like to congratulate the Minister responsible for Health, for his excellent contribution and framework in which he has positioned his debate; laying the emphasis of course on his beliefs and individual rights, freedoms and free choice.

I would like to say what Shakespeare said in King Lear: "Speak what we feel, not what we ought to say". I feel also that from a community development and pro-social perspective; one of the real issues that we have is that families find very few things to do on

the days that they have together. We have to understand that parents spend most of their time working Mondays, at least to Fridays. Some parents actually work on Saturdays. The only days that they really have off to spend quality time with their children is Sunday. So, the choices that are available to them to have wholesome family activities are very limited in this country. For instance, if people went to Sunday school with their children on Sunday morning there is no reason why they might not choose Sunday evening to go to a movie with the children, which could be an educational movie or a movie that is obviously not the type of movies we see on TV, which children has access to on any day.

One of the issues that we have found in our research on social breakdown and youth violence is that most children are not socialized to the viewing of entertainment through the film media. As a result of that many children begin to believe that those things they are seeing are real. So, the real possibility of the child being somehow sensitized to the unreality of film is something that can be expedited when children are attending cinemas or watching TV with their parents. So, there is a definite need to encourage more participation of families with the watching of TV or films, which will help to socialize the child to realize in fact that what they are seeing is fiction.

Mr. Speaker, I think the whole question of living in a *laissez-faire* capitalist society where everyone is talking about their ability to choose one good or another good; one service or another service, when living in a consumption society it is very important that people be allowed to consume according to their choices as long as that does not conflict too much with the interest of other persons in the society. Again, I think it only goes to show that there are Members in this Honourable House and Members of this Government who believe that good, healthy Christian living does not solely depend upon restricting the individual's freedoms and rights. In fact, as God said: Let there be choices; let there be free will; let you exercise your will according to his teachings and basic values that are inculcated in the individual who has to make it through this life making choices, and not having those choices made for him or her.

There are those in fundamentalist countries (Muslim countries) who believe that that is a travesty; that is anti-Christ, or anti-Mohammed in that particular case, simply to say that the individual should have the right to exercise free choice. However, if God had said to Adam and Eve that there were no choices then this wonderful experiment called life with all of its roughness, none of us would trade it with any other except that of being an eternal life; a more perfect kind of life. So, we see that free choices are not inconsistent with our religious faith; that the whole concept of individual rights and freedoms is the very core foundation of Juda Christianity.

So, to say that we will be allowing people to be able to watch clean, wholesome, family oriented

movies together in cinemas on Sundays, rather than only having the choice to watch perhaps, unregulated movies at home on the Television that they have to pay expensive money for to the cable companies, is not inconsistent with the concept of good Christian living. The condition for good Christian living is still a free choice.

I hope that we are in no way at this particular point trying to believe that the country will, at one point, be able to have extra hours to open bars to sell alcohol on Sundays, and at the same time, not have the possibility for people on Sundays to watch wholesome family oriented movies. I believe that the Minister for Communications and Works who brought this Bill has done something to give people a choice and not to limit or determine the choices that they would make. People can still decide to go during those hours to services in the church rather than to go to a movie, just as how they decide now not to watch the movies at home although they have TV channels that they are paying for to West Star; instead they decide to leave the TV to go to church. Now, if you can leave your TV to go to church on Sunday, why is it that when the cinema is further away that you are going to chose the cinema rather than church?

We have to try and become a little bit more rational and consistent with the way in which we think and with the way in which we interpret our social relationships and obligations. Thank you.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? If no other Member wishes to speak, does the Mover wish to exercise his right of reply?

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

There is really not a lot that I can add to the excellent and eloquent contributions made by the Honourable Minister for Health Services and the Honourable Minister for Community Services. I believe that they have put this whole Motion in the right perspective. It was interesting to hear the Honourable Minister for Health refer to the old days when indeed movies were shown on Sunday nights until that privilege was removed by Law.

He also spoke about the rights and freedoms of the individual. As he rightly said, allowing our people their choice to go to a movie on a Sunday afternoon, a 'G' or PG rated for children 16 years and under, one that is controlled by the British and American censorship authorities is really not creating some evil or some trespass within our society.

The position was also raised that there are people here in the Cayman Islands who also worship on Saturday, but you hear very little said about their rights and whether any commercial activities should be carried on, on a Saturday. What about their rights, Mr. Speaker?

I think what is important is what was raised by both of these Ministers, and that is freedom of con-

science. We are talking about an Island that has a very high literacy rate, an Island that has a very high standard of education; people who are very intelligent, that can make a choice. I believe that we need to move away from playing politics over these issues. I am very proud of the Minister for Health and the Minister for Community Affairs for getting up and speaking on this very sensitive issue. We have to move away from supporting things that we feel may not offend because of the political ramifications but yet our conscience is telling us that it is the right thing to do.

We have to do what is right, Mr. Speaker, and it is certainly right to give the opportunity for people to exercise their rights and freedoms within a community. Our people can decide whether they want to go to church on a Sunday afternoon or Sunday night, or whether they want to take their families to see a wholesome and entertaining film in a cinema.

The point was raised by the Minister for Community Affairs in which he said that during the week families are so busy Monday to Friday and some of them have to work on Saturdays, so they get very little time to spend with their families. Mr. Speaker, can either one of us, as representatives, search our conscience and say that it is not good for a family on a Sunday evening, the evening that they have free to themselves, to be able to take their family and watch a 'PG', a 'G' rated movie; to go to the restaurant or whatever other wholesome activity that they may wish to do? Mr. Speaker, this is something that we should be advocating.

I do not hear anybody getting up in this House or even in the churches, condemning those individuals that open the gas stations for commercial activities on a Sunday. I have seen people leaving the church and going to the gas station and buying their goods. I do not see anything wrong with that. What about the restaurants and the bars that open on Sundays? Mr. Speaker, let us in this House regardless of political implications do what is right for our people. Think about the young people in this country that the only time that they have available to them is a Sunday afternoon. What about inside the home? Who is there to control except the families and sometimes they are out, when children are switching from one channel to another? I need not say here that some of those channels carry x-rated films. We are talking about a controlled situation where we know that the film that they are going to be seeing on a Sunday afternoon is a 'G' or 'PG' rated.

Let us not think as much about the next election as we do about our own people. I cannot say how much I appreciate —not because it is a Motion from me, but because these two Honourable Ministers got up and spoke their conscience. They are going to be subjected to the same criticism as myself but yet they said how they felt about this issue.

Mr. Speaker, I also believe that there are a number of well thinking people out there who will also support this amendment here today and will see that

there is no harm in what is being done. We cannot force people into the church; we cannot force people to go to the cinema; it is a right that they themselves must exercise.

Mr. Speaker, I want to thank the two Honourable Ministers for their stellar contribution to this Motion and in voting I would commend the Motion to all Honourable Members of this House. Thank you, Mr. Speaker.

The Speaker: The question is that this Honourable House do advise and consent to the making of the said Cinematograph (Amendment) (No. 2) Rules, 2002. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Government Motion No. 8/02 passed.

ADJOURNMENT

The Speaker: Since we seem to have concluded all the business on the Order Paper could I have the motion for the adjournment Please?

Hon. W. McKeeva Bush: Mr. Speaker, of which I am very happy to do.

Mr. Speaker, I hear the Member from East End making some remark perhaps I will just leave the remark with him but I move the adjournment of this Honourable House until Monday, September 2, 2002 at 10 am.

Mr. Speaker, the Bills that were suspended will be carried over until September 2, 2002 and I will move that the questions be carried over until the September Meeting also.

The adjournment of this Honourable House is therefore moved until September 2, 2002 and I would like to thank all Members for their assistance. We know that meetings started late at times, in fact most times; it just could not be helped and if this has inconvenienced anyone then we are sorry for that and want to thank the staff especially, for their assistance. Thank you, Mr. Speaker.

The Speaker: The question is that this Honourable House be adjourned until Monday, September 2, 2002 and that all Bills and Questions that are outstanding or that have been deferred will be carried forward until that sitting. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 12:52 pm the House stood adjourned until Monday, 2 September, 2002, at 10 am.

OFFICIAL HANSARD REPORT
MONDAY
2 SEPTEMBER 2002
10.53 AM
First Sitting

The Speaker: I shall now invite the Second Elected Member for the district of West Bay, to grace us with Prayers.

PRAYERS

Mr. Rolston Anglin: Let us pray.

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

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

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

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

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

Proceedings resumed at 10.58 am

The Speaker: Please be seated. Proceedings are resumed.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

Oath of Allegiance

Mr. Donovan F. W. Ebanks, MBE
(Administered by the Clerk)

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

The Speaker: Please be seated. On behalf of this Honourable House I welcome the Honourable Temporary First Official Member.

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

Apologies

The Speaker: I have received apologies from the Elected Member for the district of East End and the Second Elected Member for Cayman Brac and Little Cayman who are both away attending a Parliamentary Commonwealth Conference in Africa.

**PRESENTATION OF PAPERS
AND OF REPORTS**

The National Environmental Policy

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Thank you, Madam Speaker.

I am very satisfied today to lay on the Table of this Honourable House the National Environmental Policy for the Cayman Islands.

The Speaker: So ordered.
Do you wish to speak thereto?

Hon. W. McKeever Bush: Certainly, Madam Speaker.

The Speaker: Please proceed.

Hon. W. McKeever Bush: Madam Speaker, this document is the result of the collective efforts of the Department of Environment and my Ministry. The necessity for such a policy arises out of the numerous complaints regarding development and the perceived negative impact it has on our natural environment.

For many years I have voiced my opinion, as well as others, on this subject. I have maintained the

position that a balance must exist between the environment and development. Many persons have taken the position, for whatever reason, that development had to be stopped to safeguard the environment. The evidence of public concern on this sensitive issue is the daily discussions which take place on the famous talk shows and the letters published in the local newspapers.

I have been concerned about Cayman's ability to achieve and maintain a sustainable economic base of which development plays an important and an integral role. To achieve this desired balance there must be sound and appropriate development and policies. The Cayman Islands currently enjoy one of the highest standards of living in the Caribbean region. The Government recognises the important role of the natural environment in creating and maintaining the economic growth and other conditions that support this way of life.

The National Environmental Policy was developed with reference to the commitment made in the environmental charter signed with the United Kingdom Government in September 2001 as well as their obligations under various multilateral environmental agreements, for instance the Ramsar Convention, the Convention on Biological Diversity, the Specially Protected Areas and Wildlife [SPAW] Protocol etc.) that have been extended to the Cayman Islands by the United Kingdom government.

The Policy embraces government's philosophy of balance and commitment to obtaining the maximum benefits from our development opportunities while ensuring the conservation of our natural environment and resources. The Policy outlines five broad goals and eight key strategies, with two of the agreed areas for priority action being: a) The enactment of National Conservation Legislation. The National Conservation Law serves to ensure that our statutory framework is in conformity with current international standards. b) The establishment of a National System of Protected Areas, starting with the creation of the Barkers National Park.

Another essential strategy in the implementation of the National Environmental policy is the creation of a national system of protected areas. Government believes that support for this concept can best be achieved through the creation of a National Park that would encourage appreciation for and understanding of the Cayman Islands natural environment, thereby affording people the opportunity to make the connection between high environmental quality and their quality of life.

Madam Speaker the general public has been advised and consulted on individual key provisions contained in the National Environmental Policy on previous occasions:

1. During the 2002 Throne Speech;

2. During discussions Paper and subsequently debate on the Marine Conservation Law;
3. During Public meetings held by the Department of Environment in 2002 on the Barkers National Park; and
4. Again when a White Paper on the National Conservation Law was brought before the Legislative Assembly in June 2002.

As the Minister responsible for the subject of Environment I am pleased to assist in the safeguarding of our environment. As Members of this House and the public may recall, the Marine Conservation Law was recently amended and hopefully there are other amendments which will be dealt with during this Meeting of the House. The Environmental Charter was signed with the UK government in September 2001. The Ministry is in the process of preparing the National Conservation Legislation to come before this Honourable House during the November session.

There are two other key important areas that the policy will cover, but it is ongoing work. During May of this year the Department of Environment in conjunction with Lands and Survey Department conducted the first of two periods of beach survey work at the 26 monitoring stations established along the Seven Mile Beach. The twice yearly monitoring program will be continued to help provide valuable management information for effective and safe planning decisions along the well-known Seven Mile Beach area.

Madam Speaker, a near shore current study was also being carried out during this year. The department of Environment continued to deploy the Acoustic Doppler Profiling current meter on the North Wall of Grand Cayman. This has led to the collection of important data with respect to the complex and poorly understood ocean currents that flow along the Island's costal shelves. It is anticipated that accurate current information will assist in determining important larval sources and transport mechanisms for commercially valuable marine species including the Nassau Grouper.

The National Environmental Policy should be viewed as an ever-evolving process that will be constantly under review to ensure that Government's policy framework is consistent with emerging environmental priorities. We are setting new policies and guidelines utilising the best practices from other costal jurisdictions and ensure that they apply equally to everyone. We are ensuring that we do not find ourselves looking back and saying we wish that we had, when it comes to our priceless natural heritage.

It is not enough to wish for a better and a more sustainable environment. Myriad are the well-intentioned efforts that came to naught as a result of poor planning and putting partisanship and personality ahead of results. It is not an "us" or "them" proposition; when it comes to the environment it is only "us". What we do affects everyone of us, therefore, we need to

include everyone in the planning and implementation of the programmes and hold everyone responsible for following through to ensure our policies do work.

Every time a person disregards the protection of our heritage and does one small thing to hurt the environment, it hurts us all. Our government has made balance the bedrock foundation upon which all of our policies are built and no where is this balanced view point and approach more important than in the areas of environment and development.

We can all recognise that any time there are people living in an area they are going to have an impact on the environment around them. We have to face the fact that we are going to have to work to find the best accommodation between the necessity of development and the requirement of environmental sustainability. We need to deliver to our children not only the natural heritage that we have received, but also the economic and social tools to live and enjoy it.

It is a sad fact that the greatest environmental crimes occur in the poorest countries. We cannot sacrifice both our prosperity and inevitably the future of our ecosystem to short-sighted policies and unrealistic demand. On the other hand we cannot allow ourselves to neglect the proper stewardship of our precious natural heritage in the pursuit of short-term prosperity. This would also have the sure future result of a damaged environment and a loss of the prosperity we were striving to achieve.

We can only avoid these two outcomes by bringing together all the elements of our society in a cooperative way to shape and adhere to policies that can lead us through the tenuous middle ground of sustainable growth. There is no quick answer save vigilance and a constant desire to work together to achieve results.

Madam Speaker, we have recently taken some negative pressure regarding the approval to allow certain specific areas to rise to seven storeys. What some people have failed to realise is that this is an example of how a balanced approach can work. It is obvious to anyone who observes our Island, that we have some areas that are much more valuable than others. If we are to maximise our opportunities, and minimize the impact, then surely these are the areas to concentrate on.

In the past decades there was a fashion to restrict growth in downtown areas and as a result urban sprawl has crept across the landscape. We need to develop our land to get the most from the least, where an acre can provide for a thousand, not one hundred to provide for one. That is what seven storeys help us to accomplish.

I have already mentioned the tremendous consultative process that has been a part of our policy. We are committed to continuing this process with public consultation in a commitment to delivering true and timely updates as to our progress.

We are not travelling entirely without a map as we journey towards a sustainable future. Many other societies, many with greater pressures and less opportunities than we have, have found ways to turn things around and improve the quality of their seas and air. We can look to these, and to those who were not so successful, and draw the lessons we need to learn and to keep constantly questioning ourselves and working to get better. Everyday, of course, will bring a new challenge and everyday will bring a new opportunity. We must welcome the first as a way to take advantage of the second. Together we can and will make a difference.

One concrete example of our policy in action is the recently announced shipwrecked city. To make this a reality all aspects of our society were involved, private and public sector working together to make a whole greater than the sum of its part. We are not only providing the necessary attractions to keep our dive industry thriving, but in providing these new sites we are taking pressure off the natural reefs. A better situation for both the environment and the industry that depends upon it, and one where the private sector are not only using their mouths but they are also putting their money where their mouths are.

So, this policy then is the message to all investors. Cayman's policy is to welcome and allow good development advising them at the outset that we have policies to guide our developmental processes and laws to back them up and will not change in mid-stream. In other words there is a level playing field for all who come here to invest. We will provide opportunity, but demand responsibility; we will not allow partisan pundits to shape or stop policy.

Thank you, Madam Speaker.

The Speaker: Thank you.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

The Speaker: I have received no notice of statements this morning.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

The Speaker: Before calling on the First Elected Member for George Town I wish to welcome back the Deputy Leader of Government Business and to wish him continued good health.

**QUESTIONS TO HONOURABLE
MEMBERS AND MINISTERS
OF THE GOVERNMENT**

Question No. 52
(Deferred)

The Speaker: Question No. 52. The First Elected Member for George Town.

No. 52: Mr. D. Kurt Tibbetts asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration to provide a complete list of persons employed in the Financial Reporting Unit, including nationality, rank and job description.

Deferral of Questions Nos. 52, 53 and 54
Standing Order 23(5)

The Speaker: Honourable Second Official Member we have reached the hour of 11 am. Perhaps it would be in order for the Leader of Government Business to move Standing Order 23(7) and (8) so that Question Time can continue.

Hon. David F. Ballantyne: Perhaps, if I may suggest before we do, I was going to move in accordance with Standing Order 23(5) that questions 52, 53 and 54 be deferred until later in the Meeting. I have discussed the position with the questioner and I understand that he understands the desirability on my part to do this. If those matters could be deferred I would seek to answer them on the earliest opportunity.

The Speaker: The question is that Standing Order 23(5) be suspended to allow the questions 52, 53 and 54 to be deferred until a later sitting. All those in favour please say Aye. Those against, no.

Ayes.

The Speaker: The Ayes have it.

Agreed: Question Nos. 52, 53 and 54 deferred for a further sitting.

Suspension of Standing Order 23(7) and (8)

The Speaker: If I may now get the Leader of Government Business to do the suspension of Standing Order 23(7) and (8).

Hon. W. McKeever Bush: Madam Speaker, I move the suspension of Standing Order 23(7) and (8) so that Question Time can be continued after 11 am.

The Speaker: The question is that Standing Order 23(7) and (8) be suspended to allow Question Time to

continue beyond 11 am. All those in favour please say Aye. Those against, no.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Standing Order is accordingly suspended.

Question No. 55

The Speaker: Question No.55. The Second Elected Member for George Town.

No. 55: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Community Services, Youth and Women's Affairs.

Before asking the question I observe that these questions were deferred from the last meeting of this Honourable House and were part of a series of questions, which I had asked in relation to matters at Her Majesty's Northward Prison. Question No. 55 asks what steps have been taken to investigate the cause of the recent prison break. That Prison break is not so recent now giving the fact that they were deferred but I hope that the question would still be understood, that not withstanding.

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, the reason the questions were deferred, had to do with other reasons. These questions were prepared and they were ready to be answered. So, the delay really is in the sitting of this House rather than in my Ministry not having these questions for the Honourable Member for George Town.

Yes, it has been some time since the escape, but nevertheless I think for the information for the general public it would be good to know that there have been two investigations into the escape. One was carried out by the police for evidential purposes. This has found no evidence of any corruption but has raised questions concerning the diligence with which some staff carried out their duties.

The internal investigation reviewed the actions of all staff concerned in the incident; assessed compliance with procedures; and considered the need for remedial action. There was a detailed examination of the cut hinges and bars. The physical security of these cells had been recently increased with the provision of weld mesh panels on the internal grilles and the addition of a weld mesh cage outside the rebar grille and metal louvered windows.

Initially it was believed that the external cuts could have been made by a power cutter which had to have been smuggled on to the wing, particularly those

in the window louvers. However, the cut in the window was shiny bright on the morning of the escape and had dulled/rusted within 24 hours. Given the noise a cutter makes, it is considered impractical for one to have been used during the weekend or on the Monday. The investigation indicates that the power-cutters owned by the Prison were accounted for at this time. Both prisoners involved, insist that the cuts were made with hacksaw blades over a significant period. An examination of the perimeter fence showed that this was cut from inside the prison and there is no evidence of outside assistance.

The internal investigation has produced no evidence of staff corruption, but it is clear that the daily fabric checks to the cells were not being carried out to the required standard. Daily fabric checks, originally called "Locks, Bolts and Bars check" means the entire fabric of the cell is checked for signs of tampering, for example: cuts to the bars or hinges; tampering with the lock such as packing the lock-and-keep to prevent the locking bar dropping into the lock bolt; attempts to dig out grilles or wall blocks.

The required standard means all security metal work is checked for signs of cutting. Walls are checked for signs of digging out. Lock-and-keep are checked for smooth operation."

Supplementaries

The Speaker: Are there any supplementaries? The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr: Thank you, Madam Speaker.

I wonder if the Honourable Minister could say whether or not the investigation was able to determine how these prisoners were able to have hacksaw blades in their possession in their cells over an extensive period.

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, could the Honourable Member please repeat that supplementary.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I was asking the Honourable Minister if he was in a position to state whether the investigation had revealed how the prisoner had come to be in possession of hacksaw blades inside the cells over an extended period.

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, there was no evidence with regards to how the prisoners had come in possession of a hacksaw blade(s) but I assume that the hacksaw that we are speaking about is so tiny that it would seem that once it was obtained, they would have been able to conceal it very easily simply because of the size. However, as we have admitted, we feel that the cause would have been the lack of diligence on the part of those Officers responsible for making sure that all the checks were done at the appropriate time as specified by the Prison regime.

The Speaker: Any further supplementaries? *(Pause)* We will now move on to the next question No. 56.

The Second Elected Member for George Town.

Question No. 56

No. 56: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister for Community, Youth and Women's affairs, what measures have been taken to prevent future prison breaks from Northward Prison.

The Speaker: Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Unless there are improvements to the physical structure of Northward costing several million dollars it will always be impossible to prevent escapes.

The Prison was not designed or constructed for the type and range of prisoners that it is now expected to hold. For example, the cell bars are soft metal and relatively easy to cut. These are not modern security bars made of manganese or lined with tungsten carbide. Similarly, whilst the new fence is a major improvement on the old chain link construction, unlike fences of this type in similar UK Prisons, it was not clad. The project overran its budget due to the problems encountered installing the fence posts and base in the solid rock and the planned workshop compound was not built.

However, the physical security of the Prison is adequate for the majority of prisoners held there. A number of steps to reduce the likelihood of escape have been taken:

1. Red lighting has been installed in the High Risk Unit that has enabled increased patrolling of the Unit to take place.

2. An extra Plan Tilt Zoom Camera is being installed on a 65-foot pole in the southeast corner of the Prison to cover the blind side of D wing. Since this answer has been written, that has been done.

3. More work has been carried out on the High Risk cells. For example the bunk beds are being re-

placed with concrete beds to reduce areas where contraband can be hidden.

Since it is clear that the main failure was in staff carrying out the basic security checks, it may be that complacency set in because of the increase in physical security on the unit, there has been an emphasis on searching in staff training sessions. The wing is now patrolled more frequently when in a lock down situation such as at night and a pegging clock has been installed to check that these patrols are done. The cell count procedure has been reinforced and a new rotation system has been introduced for staff to reduce the risk of prisoners conditioning staff.

The Speaker: Are there any supplementaries? If there are no supplementaries we will move on to the next question.

Question No. 57. The Second Elected Member for George Town.

Question No. 57

No. 57: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister for Community Services, Youth and Women's affairs, what is the Prisoner Officer to Inmate ratio at Northward Prison.

The Speaker: Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Based on an average population of 213 prisoners and including all Lead/Senior and Line Officers the overall ratio is: 1 Officer to 2.3 prisoners. Thus, on a Monday to Friday day-shift there is an average ratio of: 1 Officer to 10.6 prisoners. On a weekend day shift the average ratio is: 1 Officer to 15.2 prisoners. And on a night shift the ratio is: 1 Officer to 30.4 prisoners.

This ratio has not shown any evidence that it affects escapes. Of the 3 escapes in the last 3 years (a) Two were in the early evening (one before the new fence) and (b) One was at night from the High Risk Unit (Manderson).

During the week the average ratio will vary with the number of prisoners out at court and at the hospital or dentist.

The Speaker: Are there any supplementaries?
The Honourable Minister.

Dr. the Hon. Frank S. McField: Madam Speaker, I would just like to take this opportunity to thank the Acting Director of the Prison, Ms. Clara Range, for a good job in keeping the prison sound and safe and secure while the Director of Prison is having his annual leave. We would also like to let her and the Director know that we have full confidence in their regime and we know that they are doing what we have requested of them, which is to make sure that we

have a prison that acts as a very important element of our community services.

The Speaker: Thank you.

GOVERNMENT BUSINESS

BILLS

Suspension of Standing Order 46 (1) and (2)

The Speaker: Can I call on the Deputy Leader of Government Business for the suspension of Standing Order 46 (1) and (2).

Hon. Linford A. Pierson: Madam Speaker, I move the suspension of Standing Order 46 (1) and (2) so that the First Reading can be taken on the Immigration (Amendment) Bill 2002.

The Speaker: Thank you, the question is that Standing Order 46 (1) and (2) be suspended.

All those in favour please say Aye. Those against, no.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46 (1) and (2) suspended.

FIRST READING

The Immigration (Amendment) Bill 2002

The Speaker: The Bill has been deemed to have been read for the first time and set down for the Second Reading.

Suspension of Standing Order 46 (4)

The Speaker: The Deputy Leader of Government Business, may I call on you for the suspension?

Hon. Linford A. Pierson: Madam Speaker, I move the suspension of Standing Order 46(4) to allow for the Second Reading on the Immigration (Amendment) Bill 2002.

The Speaker: The question is that Standing Order 46(4) be suspended. All those in favour please say Aye. Those against, no.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46 (4) suspended.

SECOND READING

The Immigration (Amendment) Bill, 2002

The Speaker: The Honourable Acting First Official Member.

Hon. Donovan W.F. Ebanks: I beg to move the Second Reading of the Immigration (Amendment) Bill 2002.

The Speaker: The Bill has been duly moved, does the Mover wish to speak thereto?

Hon. Donovan W. F. Ebanks: Thank you, Madam Speaker. Yes, certainly, that is what I was hastening to do.

The Immigration Law provides in section 17 subsections (1) to (9) nine different grounds under which an application for Caymanian Status may be made. Those grounds include things such as residency of 10 years or more, as in 17(1); naturalisation or registration as a British Overseas Territory Citizen under the British Nationality Act, as in section 17(4); or marriage as contained in section 17(5). So, there are a total of nine different grounds under which application may be made. Section 18(5) of the Law provides that in considering these applications the Immigration Board can grant status in accordance with a quota.

As we all know, there was an extended hiatus of some 11 years during which no quota was issued by successive governments, however, the practice had been to only issue quotas of any limited number in relation to section 17(1), on the grounds of residency, and 17(4) grounds of naturalisation. All other sections the quota had been unlimited as such and so no numerical definition.

Accordingly, the practice, even during those years when no quotas were issued, had been that applications continued to be considered and grants continued to be made under those sections of 17, namely sections other than 17(1) and 17(4).

Section 18(6) of the Law also provides that some restriction on repetitious applications essentially provides a mandatory one year and a discretionary additional year (with the Board having the discretion) between applications or between an unsuccessful application and as the Law currently states any further applications.

The concept of restricting repetitious applications in relation to the same matter and the same circumstances and the same grounds is not at all an unusual one. Certainly, if the machinery which is to consider such applications is to have a reasonable opportunity to thoroughly and objectively consider applications, that machinery is best not overloaded by repetitious applications that bring nothing new to bear beyond what was contained in the last application that

the machinery dealt with. So, it is not unusual that organisations look to prevent the same matter being repetitiously brought back before a deciding body.

Last year, for the first time in some eleven years, a quota was prescribed under section 18(5). I think the quota was 132 in relation to section 17(1) and similar in relation to section 17(4) and (as has been the practice) was unlimited in relation to the other sections, 17 (2) to (3) and 17(5) to (9).

The response, as one would somewhat expect after such an extended period of no quotas, was substantial but not overwhelming. In relation to section 17(1) there is now I think close to five thousand people who could apply for residency. I think last year's applications under 17(1) were in the 700 or 800 range and certainly the quota under 17(1) was fully subscribed to. The quota under 17(4) was not fully subscribed to but did have more than 80 applicants who were successful.

Section 17(11) of the Law prescribes the various considerations that the Board should make in considering these applications. The matrix of factors that the Board takes into consideration looking at these applications and trying to be as objective as possible has been well publicised. For example, the fact that mere period of residence is not taken on its own weight. For example, the period of that residence in terms of the person's age is also weighted in, or whether the person has in fact lived anywhere else. The Board has been careful not to simply take a numerical approach and say that the applications should be considered just merely on that length of residence alone.

So, it does not follow that those 132 grants would have gone to the 132 people out of the 700 who have been here the longest. That is the essence of the point that I am trying to make: there are other factors that the Board takes into consideration that determine its final grading of an application.

We have recently had new quotas issued by the Government as it continues to address the issue of persons who have resided here for extended periods of time. These quotas have been issued at 250 under section 17(1) and I think 120 under section 17(4). They reflect the Government's commitment to addressing the issue of long-term residents who do not have Caymanian status. They also reflect the Government's commitment to see through its legislative initiative and establish a new legislative framework within which it will look to set a longer term policy in relation to Immigration matters and particularly in relation to this issue of long-term resident non-Caymanians.

What has come to the Government's attention and has given cause to the Bill which is now before the House, is that the current wording of section 18(6) not only prevents repetitious applications on the same grounds and same circumstances of the applicant—which as I mentioned earlier is considered justifiable

just to ensure that the machinery is not overworked in looking at the same set of material. The restriction in 18(6) prevents an applicant who had been unsuccessful under one set of grounds and who may have subsequently become eligible under another section to make an application under that new set of grounds that they may have gained eligibility under.

For example, some persons who applied on the grounds of residency last year under 17(1) and may have been unsuccessful (there were a couple of hundred people who were) who, while they would have been here 9 months or so longer since they were notified last December up until the cut off for the applications for the new quota, but who otherwise would only have been able to apply under residency, such persons may in the interim have been naturalised or may have qualified or become eligible on the basis that they have now been married to a Caymanian for the 3 or 5 years which was not under section 17(5), which was not the case last August.

What this Bill seeks to do is to amend 18(6) so as to allow such persons who have other grounds under which they are eligible to avail themselves of that eligibility and be able to go ahead and apply.

Madam Speaker, while it certainly is a new application, it is not seen by me and it certainly is not seen by the Government to be a repeat of an earlier application on the same grounds and with the same information. Instead, it is seen as a move to not deprive someone of an eligibility that they have legitimately earned. It is perhaps unlikely that anyone who had been unsuccessful under section 17(4) where the quota was not fully subscribed to last year would now have much of an opportunity of succeeding under 17(1) albeit that such a person may be eligible to apply under that section.

It is perhaps a little more likely that the person who was unsuccessful under 17(1) and who has since been naturalised may have a chance of succeeding under 17(4) where the number of applicants is considerably less.

However, be that as may, the significant consideration that the Government sought to bring to bear is that if an individual has an eligibility to apply under a section that they have not exercised within the last year or two — in other words, that they have not been the basis of a refusal within the last year or two — that that individual should have the right to go ahead and exercise that eligibility.

That is all that the Bill seeks to address. Government accepts that it is in a way an interim modification and while it is still expected that with more substantive and comprehensive changes to the Law will be made in the near future. The Government felt it appropriate to go ahead and address this small issue now and I trust that Members will find it possible to lend their support to the Bill.

Thank you.

The Speaker: Thank you. Does any other Member wish to speak?

The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr: Thank you, Madam Speaker, for the opportunity to offer some observations on this important proposed amendment to the Immigration Law 2001.

Before I get into the substance of those observations, I must register what is now my routine objection to the way this Government conducts business. We only received notice of this Bill on the 28th—a mere four days ago—and I am at a loss to understand why legislation of this importance is deemed necessary to be rushed through this Honourable House without any opportunity for public consultation. However, that has become the order of the day. I will say no more about that.

Madam Speaker, I have some reservations about making piecemeal amendments to the Immigration Law. Given the current government stated commitment to continue the initiative for Immigration reform commenced when my colleague the First Elected Member for George Town was Leader of Government Business—

[laughter and comments]

Mr. Alden M. McLaughlin, Jr: Madam Speaker, it seems as if some concern has been caused on the other side, but that, in fact, is the situation.

During that time when the First Elected Member for George Town was Leader of Government Business, there was established an Immigration review team of which I am a member, Madam Speaker, and which has been working since then to prepare reports to Government with recommendations for Immigration reform.

The first report was delivered to the Government in November of last year. With the work of that Committee being almost complete, I believe that the second report is shortly to be delivered. I am somewhat surprised that it is deemed necessary at this stage in the process for there to be amendments to the Immigration Law.

Having said all of that, in principle I have no difficulty with what is being proposed, except, that I do not believe it addresses all of the concerns I have heard raised in relation to the many persons who applied for Caymanian status last year and who were unsuccessful. I believe it is somewhere in the region of 700, if the numbers indicated by the Acting First Official Member are correct. I believe the quota was some 132 under section 17(1), and if some 800-plus persons applied under that section that means there were 700-plus who were unsuccessful.

Now, Madam Speaker, as I understand the current legislation the only two sections for which quo-

tas are required are sections 17(1) and (2). Section 17(1) deals with applications by persons on the basis of long-term residence and section 17(2) deals with adopted children . . . I am sorry, Madam Speaker, I do not believe it is section 17(2) that I am referring to, it is section 17(4). That is, persons who have applied on the basis of possession of British Dependent Territory Citizenship having been naturalised based on their connection to the Cayman Islands.

Now, Madam Speaker, all persons who applied for status under any subsection of section 17 are under the current legislation prohibited from making a further application until after the lapse of one year from the date of the communication of the decision of the Board or in the discretion of the Board a lapse of two years from the date of such communication.

The result, in the context of what has transpired since the applications last year were dealt with, is that some 700-plus persons who qualified to apply for Caymanian status are now prevented either for a period of one or two years from applying now and having the benefit of the new quota for this year.

Now, given the 11-year hiatus to which the Honourable Acting First Official Member has referred, many of these individuals have been here for extended periods of time. They were not able to apply, or if they did apply they were unable to have their applications considered in the absence of any quota set by the government who held office during that period.

The result of all of that is that we can now contemplate a situation whereby an individual who had been here for, say, 20 years, but given the relatively small quota of 132, and given the highly competitive nature of the process and the applications received by the Immigration Board, that individual though quite a worthy potential citizen of these Islands, simply did not obtain Caymanian status as a result of the exercise last year. Now that individual is prevented by the legislation as it currently stands from making any application this time around, either for one year or possibly for two years.

One can quite easily conceive of a situation whereby somebody who is less qualified within the qualifications established under the Immigration Law—including tenure and other things—might well be granted Caymanian status this time round because those 700-plus individuals who applied unsuccessfully the last time round are unable to contend this time around for a grant of status. We could well wind up with persons who have lived here for 16 or 18 years, contributed tremendously, were unsuccessful the last time around not being granted Caymanian status, and are unable to apply. On the other hand, there are persons who have lived here for significantly shorter periods of time and perhaps have contributed less, who will now be able to contend under the new quota for this year.

The difficulty I have with the amendment being proposed, Madam Speaker, is that it does not ad-

dress that particular situation. What it seeks to do is say that someone who applied unsuccessfully, for instance under section 17(1) (that is long time residence) and did not succeed, can now go on to make an application under one of the other subsections of section 17(1) assuming they qualify under that particular section.

I believe that the practical effect of the proposed change is going to be that there is going to be an abundance of applications for British Dependent Territories Citizenship because the effect of the change, if this Honourable House passes it, is going to be to force persons who cannot still apply under section 17(1) on the basis of long time residence (because they applied the last time around) to make an application for British Dependent Territories Citizenship. Assuming that application is successful, which the majority of them are, they then make an application to the Immigration Board for grant of Caymanian status on that basis.

So, what we are doing is in effect creating even more bureaucracy. We are now forcing individuals who should properly qualify under section 17(1) on the basis of long time residence, to take an additional step by applying first for British Dependent Territory Citizenship: having obtained that, to go then and make an application to the Immigration Board again under that particular subsection.

I do not believe that we should make that distinction. I believe by and large what the amendment seeks to achieve is right, but I believe we need to change what is being proposed so that any application, any person who qualified, whether they applied last year or not, are able to make an application this time round.

I understand that initially the reason for the inclusion of such a restriction was to prevent the abuse of the system by people whose applications for Cayman status have been rejected from applying year after year, after year. However, I believe we have to look at that particular subsection in the context of what has transpired or, to be more accurate, what has not transpired over the course of the last eleven years or so.

Because no quotas were established, no applications for Caymanian status on the basis of residence could be dealt with during that period. It must seem unfair in the extreme to persons who applied last year, who had 15 or 20 years residence here and who were unsuccessful—not because they are bad people, not because they would not in the normal circumstances have been granted Caymanian status—simply because the quota was so small and the process was so competitive that they did not succeed. To now be faced with the situation where they are prevented from making such an application this time around, simply because they made it the last time around and are forced down the road where they have to make an application first for British Dependent Ter-

ritory Citizenship and with that paper in hand then go back to the Board and say, *I now qualify under this subsection. Please may I have my status?* As I said just a short time ago, I believe that is simply inviting more paperwork and more bureaucracy; putting people to additional trouble and [making them] climb over an additional hurdle to achieve the same result.

If we are going to at this stage make amendments to the Immigration Law, I believe we need to think about what we are trying to do all the way through and while trying to redress the grievance which a number of people have spoken to me about, that we give them an even greater grievance because not everybody is going to want to go down the road of becoming a British Dependent Territory Citizen first.

As the Immigration Law currently stands, persons who are American citizens (assuming they meet the other criteria) can apply for Caymanian Status. A person who is an American citizen who applied the last time around but who did not succeed simply because of the fierceness of that competitive process, might well not want to become naturalised. The reason being that to become naturalised one would have to give up his American citizenship and would never be able to make such an application under section 17(4) – or I should say on the basis of British Dependent Territory Citizenship granted under section 17(4).

Madam Speaker, if the Government chooses to 'stick to its guns' I shall be disappointed because I believe that what is being sought by the amendment is to redress this grievance to address this sense of unfairness because I applied last year, and no matter how well qualified I was, if I was unsuccessful I cannot apply again this year. In my respectful submission, as the proposed amendment currently stands it does not achieve that particular objective.

I invite the Government to give consideration to those observations, which I have made and I trust that some other Member will rise to explain the rationale for the distinction or that the Honourable mover of the Bill will address it when he exercises his right of reply.

I thank you, Madam Speaker.

The Speaker: Thank you. Does any other Member wish to speak? Does any other Member wish to speak? Last call, does any other Member wish to speak?

The First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you.

Madam Speaker, the Second Elected Member for George Town has basically outlined our position. We have not had a lot of time to think about it, but I think we all understand clearly what the amendment is geared to achieve. To make it absolutely clear, I be-

lieve it is safe to say that perhaps all of us are in agreement with what it hopes to achieve.

The observations that have just been made are only trying to ensure that in making this amendment we do not leave a certain number of individuals out of the picture who are not only eligible, if we look at it from the broad perspective, but perhaps deserving of consideration.

We have a situation here, Madam Speaker: People whose applications were unsuccessful during the last quota have contacted me. They have appealed the decisions. Because of the quota being filled, after a certain point certain people were not able to be dealt with. However, because they were of the opinion that it would take two years again for them to be able to apply, they made appeals and I have no idea of the numbers, but I am confident that there are a fair amount of them.

When I checked with the Legal Department not so very long ago, my understanding from the department was that the young lady who had been dealing with the appeals had left. They were sitting on a desk and there was no one physically assigned to deal with them. Apparently there was no one that they could afford to lead in that direction to spend any time on dealing with the applications.

We have those people also who, perhaps given their circumstances for this amendment, would perhaps like to withdraw their appeals and make applications. Madam Speaker, even for those who become aware of that and are able to do so, the Honourable Acting First Official Member when he spoke to the situation of repetitious applications . . . I do understand the kind of applications that he is talking about, however, I think the method to try to avoid that has to be considered again.

If I understand correctly, the procedure now is that these persons who might be called 'repeat applicants' would still, in the majority of cases if not all, be able to apply for BDTC (British Dependent Territory Citizenship) through the regular channels. I do not believe that a part of the consideration for these applications for British Dependent Territory Citizenship would be on the basis of whether they are a repeat applicant for Caymanian status. So, if these same individuals who are considered repeat applicants took the time out to apply for BDTC and received it then there is no mechanism to stop them from applying for Caymanian status.

I am saying that if these individuals are able to apply under another subsection of section 17 then it does not achieve the objective at all. I only make those observations to say that if we are not going to be able to isolate that situation within itself, and we run the risk of deserving and worthy individuals not being able to find another subsection of section 17 to be able to apply under, then, Madam Speaker, we need to reconsider the situation so that those people

are not left out. That is all I think, in summation, what we are saying.

I think we want to achieve the same thing but I think the observations that have been made are worthy of reconsideration because if we approve the amendment as it is, Madam Speaker, then I am confident we will be leaving out a fair number of individuals who may well be deserving of their applications being heard. I think if we consider it from that point of view we should want to look again because I do not believe that any one of us would want to exclude those people.

Just like my colleague has done, I would ask the Government to reconsider simply allowing the amendment to come forward in a manner which does not exclude these people that we are talking about. I hope that the arguments are received in the spirit that they have been put forth. We would like to support the amendment; however we are asking for it to be brought in a manner which would not exclude this category of people so that we could feel comfortable in supporting it. We do not want to feel like there is an exclusion inadvertently happening and have to be a part of that knowing . . . If we did not know it would be different, but we know. It makes no sense to do it now, get a lot of complaints, and then come back to correct it afterwards.

Thank you.

The Speaker: Thank you.

The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, I would just like to ask whether or not the First Elected Member for George Town and the Second Elected Member for George Town have forgotten that it is very possible in this Parliament to amend a motion. They can bring an amendment if they so feel that the Bill the Government has brought is not sufficient to deal with the problem that the Government is proposing to treat with its Bills. So, both of them spoke. They know the rules of the House; they know that they have the ability to amend and therefore to include exactly those individuals that they want to have included.

I would also like to comment on the question on how to be fair with regard to these Immigration issues: it is something that continues to plague all of us. The Second Elected Member for George Town spoke about the Review Committee and the fact that the Law needs to be changed. He also spoke about the bringing of this Bill by Government to amend the Immigration Law specifically to deal with an issue which the Government believes is one that has to do with interpretation rather than trying to correct the defects which now become obvious in the Law as a result of time.

All Members of this House have accepted the fact that we need to amend the Immigration Law.

However, while the review is taking place and being completed, Government felt at this particular time that when the Law was interpreted that there could be those that would say that this particular section of the Law meant that you could not apply under another section of the Law. Not that you would be barred from applying for another year or two, but that you would be barred from applying under any other section that you might qualify under since there are persons that obviously qualified and applied as residence, but could have applied also as a result of being British Dependent Territory Citizens.

Or, there might have been persons who applied under some other section of the Law that now might find it convenient. We do not know how many persons there are, but I think that what came up in the discussion is that there might be a good possibility that this section of the Law could be challenged. This would therefore make it more specific and eliminate the possibility for this particular section of the Law being challenged under some type of judicial review thereby giving the benefit of the doubt to those persons by saying, we believe that the original persons that formed the law did not intend to exclude persons who applied under one section of the Law, from applying under another section of the Law if they were so qualified under that section.

So, Madam Speaker, the possibility for the Opposition, to show at this particular point their concern, is to bring the amendment. If Government has forgotten to do something that the Opposition is aware should be done, then I invite the Opposition to bring the amendment to this Government Bill.

The Speaker: The Second Elected Member for George Town is there a point of order?

Mr. Alden M. McLaughlin, Jr: No, Madam Speaker, I have a question for you.

The Speaker: On what basis? The reason I am asking that, Second Elected Member, is that you have already spoken. Perhaps you may wish to delegate it to a Member of the Opposition, who has not spoken.

Mr. Alden M. McLaughlin, Jr: Madam Speaker, I am not going to speak to the Bill.

The Speaker: If it is a procedural point, then I will allow it. If it has to do with the debate then perhaps you can speak to me in Chamber on the luncheon break.

Mr. Alden M. McLaughlin, Jr: It is a procedural matter.

The Speaker: Please proceed.

Mr. Alden M. McLaughlin, Jr: Madam Speaker, I wonder if we might have an adjournment to enable us

to take up the invitation of the Honourable Minister to move a suspension to bring the amendment which he has invited us to do.

The Speaker: Is it the wish of the House to take a suspension at this time?
Honourable Leader.

Hon. W. McKeever Bush: Madam Speaker, I rise to speak on this Bill.

The Speaker: Please proceed.

Hon. W. McKeever Bush: Madam Speaker, this amendment—

The Speaker: Is that an implied intention Honourable Leader that it is not the wish of the House to take a suspension? If not I should ask the question that the House be now suspended—

Hon. W. McKeever Bush: Madam Speaker, I will speak and then we can take the suspension and then we can decide what we are going to do about the offer that has been made, if you do not mind.

The Speaker: Honourable Leader as it is on the Floor, I would much prefer to put the question then we could vote in the affirmative or the negative and then proceed.

Hon. W. McKeever Bush: There is no Motion.

[background talking].

The Speaker: Honourable Members, seeing that I had put the question—

Hon. W. McKeever Bush: Madam Speaker, since you have voiced your opinion in trying to take a suspension let us have the question.

The Speaker: Thank you.

The question is that this House be duly suspended. All those in favour please say Aye. Those against, no.

Ayes.

The Speaker: There is question for clarification. Out of an abundance of caution, let me put the question again. The question is that this House be duly suspended until 2.30 pm. All those in favour please say Aye. Those against, no.

Ayes.

The Speaker: The Ayes have it.

Agreed: The House will be suspended until 2.30 pm.

Proceedings suspended at 12.31 pm

Proceedings resumed at 3.14 pm

The Speaker: Proceedings are resumed.

The Leader of Government Business had intended to speak before we took the break. Is it still your intention to continue?

The Honourable Leader of Government.

Hon. W. McKeever Bush: Thank you very much, Madam Speaker.

I have listened to the Members of the Opposition who spoke, and as usual the Second Elected Member for George Town continued his attack even after he agrees. However, that seems to be their job: to oppose and then to oppose and oppose again. It does not help the country move forward.

To be fair to all those who applied last year and in 2000, this amending Bill allows them to apply under any other subsection that they qualify under. That is what as a government we set out to do and that is what this amending Bill accomplishes. We are clarifying a possible misinterpretation of the existing Law whereby persons are barred from applying under two years.

The amendment would apply to all applicants who previously applied on the grounds of residency, if they were married to a Caymanian, naturalised by the Governor as a British Overseas Territory Citizen, or qualify under any other subsection of the status provisions in the Law without having to wait two years.

I listened to the Second Elected Member for George Town who is proposing to allow all applicants from last year (over 700 people), to reapply this year under the same grounds of residency without waiting the two years as required by the Law and the Immigration Board. It is clear that section 18(6) intended to prohibit all applicants from reapplying under the same subsection for a period of at least one year. This is because the consideration for some grants, in particular those under 17(1) are done by them competing against each other.

To allow the failed applicants from last year to compete again under the same subsection would result in this year's applicants competing against a wider field of applicants. This then would result in some applicants being refused unfairly due to lack of quota to cover all of this year's applicants, plus all those from last year.

Madam Speaker, statistics available from the Immigration Department show that there are over 5,000 persons resident in the Island who would qualify for status on the grounds of residency. Is the Member proposing that we give 5,000 persons status? That is the only way that we could cover them.

Since we became the Government on November 8 we have tried to rectify the situation where our Immigration policies had bogged down to the point that they had become internationally unacceptable. We cannot have, as we have said, people here for thirty years and not give them security of tenure and that is what we are trying to accomplish.

I know that some of our people, Madam Speaker, are confused and are against these attempts. Some of the people in trying to clear what is an inequity, they are against it. These are not people who are coming into the country fresh, as new residents. These have been here for, as I said in some instances, thirty years. Many of them are naturalised by the Governor and carrying a Caymanian passport. How can we allow this inequity to continue and as I have said, the Cayman Islands is not being allowed to do it. That is why there is so much international pressure in some.

The Governor is entitled to consider and grant applicants naturalization, giving them a Caymanian passport. Nothing else has been happening and as I said far many people have Caymanian passports and that is it. This is one of the reasons we need to have the Constitutional Modernisation now and not in some vague and indefinite future.

We do not need, in my opinion, the conflict of the Governor circumventing our Immigration processes by giving out Caymanian passports. The sooner, in my opinion, we have a Ministry of Home Affairs to deal effectively with these processes, the better off this country and all who live in it will be.

Madam Speaker, the Government has made it absolutely clear why the amendment is before the House . . . and I heard the Member for George Town rattling his saber, but they had their chance and they did not do too much with it. I heard him complaining as he called it a routine objection—although he sits in Business Committee and agrees if the Bills come then he gets on the Floor of the House and makes his objection. I know that he is Opposition, but do not tell me that everything you bring he has to object.

He said, "legislation of this importance will need public input and it should not be rushed" and yet that same Member for George Town is proposing an amendment. This is the long suit of the PPM (People's Progressive Movement). This is their handiwork; this is the conniving way they do things.

He was quick—very quick—to grab centre stage for his Leader, the Leader of the Opposition, saying "well it is the previous Leader of Government Business who did this." What a joke! The Immigration Review Team, Madam Speaker, was only appointed on 14 September, nearly a year after the General Elections in 2000, when they—that same duet—made an election issue to do something about the Immigration Policy in this country. Yet he says, 'you are rushing it without public input. What am I going to do? I am the legal mind in this House, I am the elected legal

mind, I am going to make a proposal, I am going to make an attempt to amend the Law.' Oh what tangled webs they weave when they practise to deceive.

The review team appointed on 14 September 2001, and that was only after the then Chairman had been writing to Government in particular to the then Leader of Government Business, from February 2001 concerning much needed Immigration reform and amendments to the Law and while the Team was appointed, the first report was received by our Government on 4 December. Immediately it was taken to Executive Council and referred to the Legal Drafts people for amendments to be made.

The second report, Madam Speaker, is expected this week and we intend to take the same quick decisive action. Once all legal review has taken place the Bills will be brought to the Legislature.

They cannot come here after absenting themselves from one Meeting to try to take control of this Legislature. I do not think that this Government is going to support any amendment brought to do what he says he is going to do. We have considered the matter carefully, we have taken legal advice and I do not see the need to do what he said he is going to do.

How can you get up one minute, decry the Government for bringing the amendment with no public input (he claims) when the truth is that these issues have been dealt with from the time I came to this Legislature and before. For over 20 years now they have been talking about Immigration review and Immigration reform and nothing was done, as nothing was done from November 2000 to September 2001, nothing! Now this Government is trying to bring some sense, some equity to the whole situation and we get criticized and all manner of evil said about us. Why?

Our quota, Madam Speaker, of 120 based on the number of people naturalized by the Governor is a realistic figure until in an attempt to try to get some sense and give some people some hope of tenure until we could get the final report and deal with it in a sensible manner. I wonder if he is going to take center stage for that also. I wonder whether he even attended as many meetings as he should have.

Nevertheless, Madam Speaker, I said that the Member is new in the House and we have to give some latitude for his 'greenness' but those days are done. That Member knows exactly what he is doing. I say this because of why the Leader is where he is today—move these kind of amendments and you can tell why.

The Government, as I said, has thought carefully about the amending legislation to an extent it had to be brought in some haste and in some instances, Madam Speaker, we had to do that with several pieces of legislation. If he and his partner had been the kind of managers that they say they are, they would have no cause today because they would have rectified it from last year. So, with all that he has said, let him think a little bit more about it.

The Speaker: Thank you. Does any other Member wish to speak? Does any other Member wish to speak? Last call, does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

Hon. Donovan W. F. Ebanks: Madam Speaker, I wish to very briefly acknowledge the comments that have been made and to thank those Members whose tacit support has been given by their lack of comments.

I only wish to respond to the comment that was made in relation to this proposed Bill—obviously not addressing the concerns of all the people who were unsuccessful in the last set of considerations to the Board relative to the 2001 quota—and to say that, yes, unfortunately it is a reality that you are seldom ever able to please everyone. Certainly, if we were to uphold that concept which the Law contains in 18(6) of not allowing or entertaining repetitious applications on the same grounds, then it is unfortunate that some people will perhaps not see this as something that is of great benefit to them.

We feel that that concept deserves to be upheld, just as we feel that those individuals who have alternative eligibilities should be allowed to exercise those. That is really the intention of the Bill. So, I thank Members as I said, for their contributions.

Thank you, Madam Speaker.

The Speaker: Thank you. The question is that a Bill shortly entitled The Immigration (Amendment) Bill 2002 be given a Second Reading. All those in favour please say Aye. Those against, no.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Immigration (Amendment) Bill 2002 given a Second Reading.

The Speaker: The House will now go into Committee to consider the Bill.

House in Committee – 3.35 Pm

COMMITTEE ON BILLS

The Chairman: Please be seated.

With the leave of the House, may I assume that as usual we should authorise the Honourable Second Official Member to correct minor errors and such like in these Bills?

Madam Clerk, please read the Bill and the clauses.

The Immigration (Amendment) Bill 2002

The Clerk: Clause 1 Short title.

The Chairman: The question is that Clause 1 do stand part of the Bill. All those in favour please say Aye. Those against, no.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 1 passed.

The Clerk: Clause 2 Amendment of section 18 of the Immigration Law 2001 (Revision). Procedure of Board in considering applications for grants.

The Chairman: I believe that there is an amendment to be proposed.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Chairman for permitting me to move this committee stage amendment without the usual two days' notice having been given.

Madam Chairman, the proposed amendment to Clause 2 of the Bill is in the following terms. That Clause 2 be deleted and the following substituted therefor: "2. The Immigration Law (2001 Revision) is amended by repealing section 18(6) and substituting therefor the following—

'(6) Any person who applied for Caymanian status in 2001, or subsequently, and whose application was rejected may re-apply at any time under any subsection of section 17 after the date of the commencement of this section.'"

Madam Chairman, as I indicated in my contribution to the Second Reading of this Bill, the purpose of this proposed amendment is to ensure that persons who qualified to apply for Caymanian Status last year and who did apply but were unsuccessful, are not unduly prejudiced as a result of that application and its subsequent rejection from applying this year under the new quota.

The basis for that is that giving the large number of persons who met the requirements for application in 2001 and giving the competitive process that was adhered to by the Immigration Board it would, in my view, be unfair to allow at this stage, persons who may well be less qualified and less worthy to make applications and ultimately be granted Caymanian Status while those others who applied in 2001 unsuccessfully are prevented from so doing merely because they had made an earlier application which had been unsuccessful.

That, in short is the basis for the proposed amendment. I commend it to all Members of this Honourable Committee and notwithstanding what the Honourable Leader of Government Business has said,

I do hope that the Government can find it within themselves to support this amendment.

I thank you, Madam Chairman.

The Chairman: Does any other Member wish to speak?

The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you, Madam Chairman.

Just to clarify the point that this proposed amendment does not speak to any five thousand individuals it only speaks to those who made application prior to this during 2001. So, it would not open any doors for any other applicants, who without this amendment would not be eligible.

I just want to be sure that point is made clear with regards to what the Leader of Government Business had spoken to when he was debating, when he made mention of those five thousand people.

Madam Chairman, to reiterate the point where we seem to differ fundamentally with the Government— we agree with them right up to the point of the amending Bill. Our position is that those people who the Mover of the Bill has admitted are being excluded, we do not take the position that “while sometimes you cannot satisfy everybody”. We think that for a level playing field to exist, this amendment should take place to allow those people the ability to make their applications and whatever the quota is the Immigration Board in their deliberations would make their decisions in the same manner that they are charged to do.

The Chairman: The Honourable Leader.

Hon. W. McKeeva Bush: Madam Chairman, I spoke of five thousand people. I said that is the figure who would qualify for status on the grounds of residency and what the Member is proposing, is to allow all applicants from last year, which is over seven hundred people, to reapply this year under the same grounds of residency under the two years as required by the Law and the Immigration Board.

As I said, the Law Review Report before Government this week and we intend to move quickly and to get that to this Legislature as soon as the Drafts people can have a Bill made. That is the undertaking we have given and true to our word when we said that we were moving the process along last year, this Government has done more than any other Government, it is over five hundred and something people.

So, when they said that this Bill was rushing the process they should have stuck to that rather than playing politics as they are now doing. So that they can get out and say “well we moved this amendment to get all of these people rectified”.

We are creating a level playing field and as I said, the United Democratic Party gave its word early

in our beginning and all through this past eight months we have kept our word and we will continue to do that.

The Chairman: The Second Elected Member for West Bay.

Mr. Rolston Anglin: Thank you, madam Chairman.

As I look at the amendment and as I listen to the ‘in short’ reasons for the amendment. I wish I had been given the long reasons for the amendment because certainly I cannot support the ‘in short’ reasons given for the amendment by the move.

I see here a situation where the Government sought to clarify a matter that Lawyers seemed to have had varying opinions on and that is just what the Law means when it says that an applicant cannot make further application. Does further application mean, further application of the same type? Or does further application mean, they cannot reapply under any other subsection? As I look at the proposed amendment by the Government I see what seems to be a sensible way in which to deal with that particular matter.

The Mover of this Committee Stage amendment said that one of the primary reasons for allowing persons who were not successful last year in obtaining Caymanian Status to reapply this year, would be to put them back in no at this stage because some of the people who apply this year may be seem to be less worthy by the Immigration Board if they had compared them to persons who applied last year. In other words, persons who were there last year may be deemed more worthy, but what about the persons who were successful last year? Surely some of them may be deemed less worthy than the persons who will apply this year.

So, when ranked against the persons who applied this year, it is conceivable that none of the persons who applied in 2001 would have been granted Caymanian status. It is conceivable that the persons who are applying this year are indeed more suitable applicants as determined by the Immigration Board. As the mover of the amendment admitted, and I will agree, the Immigration Board did a very good job of coming up with a fair system in which they went through the process of reviewing those applications.

However, on the basis that persons being less deserving would get Caymanian status over people who are more deserving is one that cannot be addressed at this particular point in time. There are people who have already been granted Caymanian status under last year’s quota, who themselves may have been less worthy than the applicants we will receive this year and indeed if they had to compete against this pool, this year, the year 2002, would not have been granted Caymanian status. So I do not see the argument that was put forward, holding water.

The amendment by the Government simply interprets the Law that makes it clear if a person ap-

plied for Caymanian status under a particular section and were not successful they cannot reapply under that same section. They cannot make a new application under that same section within the one or two years as deemed by the Immigration Board. They can however make a new application under some other section.

I think that most people would agree when you read the Law that that was probably the intention of the Legislative Assembly at the time when this particular amendment was originally put into the Law.

So, if someone who goes through the process of applying under residency, for example, now wants to apply under the grounds of marriage, they can apply and they will not be prejudiced against. However, I can say that their proposal will not get my support. I do not believe that at this particular point in time this is necessary.

As a member of the Immigration Review Team, the Review is in its late stages. Once the Legal Drafting Department can provide us with a new Bill we will finally be able to come into this Legislative Assembly and sensibly and holistically debate the whole issue of Immigration in this country.

Thank you, Madam Chairman.

The Chairman: Thank you. Does any other Member wish to speak? Does any other Member wish to speak? Last call. Does any other Member wish to speak? If no other Member wishes to speak, the question is that the amendment stands part of the Clause. All those in favour please say Aye. Those against, no.

Ayes and Noes.

The Chairman: The Noes have it.

Agreed: Amendment failed.

Mr. Alden M. McLaughlin, Jr: Madam Chairman, may we have a Division?

The Chairman: Certainly, Madam Clerk.

Division No. 5 /02

Ayes: 4

Mr. D. Kurt Tibbetts
Mr. Alden M. McLaughlin
Mr. Anthony S. Eden
Mrs. Edna Moyle

Noes: 8

Hon. W. McKeever Bush
Hon. Gilbert A. McLean
Hon. Donovan F. W. Ebanks
Hon. David F. Ballantyne
Hon. George A. McCarthy
Mr. Rolston M. Anglin
Capt. A. Eugene Ebanks
Mr. Cline A. Glidden, Jr.

Absent: 5

Hon. Linford A. Pierson
Hon. Roy Bodden
Hon. Dr. Frank S. McField

Mr. Lyndon L. Martin
Mr. V. Arden McLean

The Chairman: The results of the division. 4 Ayes, 8 Noes and 5 Absentees.

Agreed: Amendment negated by majority.

The Clerk: Clause 2 Amendment of section 18 of the Immigration Law 2001 (Revision). Procedure of Board in considering applications for grants.

The Chairman: The question is that Clause 2 do stand part of the Bill. All those in favour please say Aye. Those against, no.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 2 passed.

The Clerk: A Bill for a Law to amend the Immigration Law 2001 (Revision) to allow certain applications to reapply for the grant of Caymanian Status in a shorter period of time and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, no.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: That concludes Committee Stage and the question is that the Bill be reported to the House. All those in favour please say Aye. Those against, no.

Ayes.

The Chairman: The Ayes have it. The House will resume.

House resumed at 3.54 pm

The Speaker: Please be seated.

REPORT ON BILL

The Immigration (Amendment) Bill 2002

The Speaker: The Honourable Acting First Official Member.

Hon. Donovan F. W. Ebanks: Madam Speaker, I beg to report that a Bill entitled The Immigration (Amendment) Bill 2002 was considered by a Committee of the whole House and passed without amendment.

Hon. George A. McCarthy
Mr. Rolston M. Anglin
Capt. A. Eugene Ebanks
Mr. Cline A. Glidden, Jr.

The Speaker: The Bill was duly reported and is set down for Third Reading.

Absentees: 4

Hon. Roy Bodden
Hon. Frank McField
Mr. Lyndon L. Martin
Mr. V. Arden McLean

THIRD READING

Suspension of Standing Order 47

The Speaker: The Honourable Leader of Government may I have a Motion for the suspension of Standing Order 47.

The Speaker: The results of the Division 9 Ayes, 4 Noes and 4 Absentees.

Agreed by majority: The Immigration (Amendment) Bill 2002 given a Third Reading and passed.

Hon. W. McKeeva Bush: Madam Speaker, I so move.

ADJOURNMENT

The Speaker: The question is that Standing Order 47 be hereby suspended. All those in favour please say Aye. Those against, no.

The Speaker: May I have a Motion for the adjournment Honourable Leader.

Hon. W. McKeeva Bush: Madam Speaker, the proposal is that we will meet again on Wednesday next week. All the Bills are not ready. So, Madam Speaker, we propose to adjourn this Honourable House until Wednesday, 11 September 2002.

Ayes.

The Speaker: The Ayes have it.

The Speaker: Thank you. The question is that the Honourable House be adjourned until Wednesday, 10 am, 11 September 2002. All those in favour please say Aye. Those against, no.

Agreed: Standing Order 47 suspended.

The Immigration (Amendment) Bill 2002

Ayes.

The Speaker: The Honourable First Official Member.

The Speaker: The Ayes have it.

Hon. Donovan F. W. Ebanks: Madam Speaker, I beg to move that a Bill entitled The Immigration (Amendment) Bill 2002 be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled The Immigration (Amendment) Bill 2002 be given a Third Reading and passed. All those in favour please say Aye. Those against, no.

At 3.58 pm the House stood adjourned until 10 am Wednesday, 11 September, 2002.

Ayes.

The Speaker: The Ayes have it.

Hon. W. McKeeva Bush: Can we have a Division Madam Speaker?

The Speaker: Certainly. Madam Clerk.

Division No. 6 /02

Ayes: 9

Hon. W. McKeeva Bush
Hon. Linford A. Pierson
Hon. Gilbert A. McLean
Hon. Donovan F. W. Ebanks
Hon. David Ballantyne

Noes: 4

Mr. D. Kurt Tibbetts,
Mr. Alden M. McLaughlin
Mr. Anthony S. Eden
Mrs. Edna M. Moyle, JP

OFFICIAL HANSARD REPORT
WEDNESDAY
11 SEPTEMBER 2002
10.39 AM
Second Sitting

The Speaker: Before I call on the First Elected Member for the district of George Town to grace us with Prayers, I would like to observe a moment of silence in remembrance of the victims of 9/11 and for solidarity with their families.

PRAYERS

The Speaker: The First Elected Member for George Town, please grace us with Prayers.

Mr. D. Kurt Tibbetts: Let us pray.

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

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

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

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

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

Proceedings resumed at 10.43 am

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

Oath of Allegiance
Mr. Samuel W. Bulgin
(Administered by the Clerk)

The Speaker: I now call on Mr. Samuel Bulgin to come to the Clerk's desk.

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

The Speaker: On behalf of this Honourable House I welcome the Honourable Temporary Second Official Member. You may take your seat.
Please be seated.

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

The Speaker: I have received no notices this morning.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**The Report of the Standing Business Committee -
Second Meeting of the 2002 Session of the Legis-
lative Assembly**

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Madam Speaker, I lay on the Table of this Honourable House the Report of the Standing Business Committee, the Second meeting of the 2002 Session of the Legislative Assembly. The Business Committee met on Wednesday, 5 June; Tuesday, 12 June; Wednesday, 3 July; and Monday, 8 July.

The Speaker: So ordered. Do you wish to speak further thereto?

Hon. W. McKeever Bush: No, Madam Speaker.

The Speaker: Thank you.

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

The Speaker: I have received notice for a statement by the Leader of Government Business.

Policy of the Government of the Cayman Islands in Relation to the Dual Criminality Rule and Foreign Tax Evasion

Hon. W. McKeeva Bush: Madam Speaker, and Honourable Members, this statement is on the policy of the Government of the Cayman Islands in relation to the dual criminality rule and foreign tax evasion.

The Cayman Islands have always been a free market capitalistic oriented society and as such has maintained a policy of being a tax neutral jurisdiction which imposes no direct taxation on any persons living in or doing business in or from these Islands. The financial industry of these Islands provide significant employment for the people of these Islands, revenue for the Government from which the Government is able to provide infrastructure services, education and other essential public services to locals and residents. There should be no doubt in anyone's mind that the financial industry is of great importance to these Islands. The Members of the Legislative Assembly, when the Proceeds of Criminal Conduct Law was introduced in 1996 and amended in 1998, supported this legislation after a very long consultative process with the private sector and on the firm advice of the then Attorney General, Mr. Richard Coles.

Mr. Coles in his capacity as legal advisor to the Government of the Cayman Islands indicated to the private sector in writing and to the members of the Executive Council and to the Legislative Assembly that offences which either directly or indirectly related to foreign fiscal offences could not constitute a predicate offence for the purpose of a money laundering charge under the Proceeds of Criminal Conduct Law in the Cayman Islands.

On the basis of the advice and the statements made by Mr. Coles in the Legislative Assembly and to the General public of the Cayman Islands, as correctly and accurately set out in the Hansard reports of Parliamentary debates, and referred to in the media in a special commentary on The test of dual criminality and tax evasion in Cayman appearing in the issue of the Cayman Net News of the 9 August 2002, it was our clear understanding that local banks, trust companies, attorneys-at-law, accountants or other financial service providers who dealt with clients, who may for one reason or another, have failed either directly or indirectly to have been in compliance with their domestic foreign taxing statutes would not be subjected to any charges of money laundering in the Cayman Islands.

If such assurances had not been given the then Members of the Legislative Assembly in 1996 and 1998, quite clearly, would not have voted in the Legislative Assembly to pass the Proceeds of Criminal Conduct Law or the amendments thereto. No change to the Laws of the Cayman Islands in this regard or its long standing and internationally recognised public policy of not enforcing fiscal laws of third party countries was, in our opinion, made or intended to be

made. We therefore consider any attempt on the part of anyone to establish that offences which either directly or indirectly relate to foreign fiscal offences committed by a foreign national in his own country should be regarded a predicate offence entitling a charge of money laundering to be brought against our own financial service providers to be a breach of faith on the part of our Government. This would be an attempt to introduce public policy which if successful would be completely against the public policy of this country and contrary to that of the Government. Such action is not therefore in accordance with our policy and our wishes and is not in accordance with what the country was told when we supported the legislation, and we therefore, wish to disassociate ourselves from any action in that regard.

If this Government sanctioned such action and expressed its approval of it, then we would be justifiably accused of agreeing initially to one set of legal principles and policies and then suddenly attempting to broaden them. The public both locally and internationally would be justified in feeling that they have been misled and this would, in our opinion, cause a loss of confidence, not only in our Government but also in the financial industry, a core ingredient in the economy of these Islands.

We, therefore, feel obliged to make our position clear and to affirm that as far as this Government is concerned there has been no change in our policy since The Proceeds of Criminal Conduct Law was introduced in 1996 and amended in 1998. No legislation has been passed which altered in any way the application of the well-accepted dual criminality rule. This rule provides that any foreign fiscal offences of any technical offences which may have been committed in the course of committing a foreign fiscal offence will not become predicate offences upon which money laundering charges could be brought in the Cayman Islands. The Government's policy remains the same as set out above and contained in the statements made by the then Attorney General, Mr. Richard Coles in 1996 and 1998 when the Proceeds of Criminal Conduct Law was introduced and subsequently amended. It is not our policy that international transactions which lead to the under-payment or non-payment of taxes by a national of a foreign country either in his own country or in the country in which he chooses to do business should be criminalised in the Cayman Islands and give rise to charges of money laundering against our own financial service providers and institutions. The Government at no time intended to pass a law that would bring about such a situation.

Madam Speaker, we recognise that attitudes towards reporting of income and payment of taxes vary widely from country to country and are a part of the domestic law of each country. Banks, trust companies and other financial service providers and professionals in this country are not knowledgeable as to the tax laws of other countries and are not likely to be able to determine if their clients or customers are act-

ing in full compliance with the tax laws of their own countries and any other affected countries.

In a recent case one of the counts in the indictment relating to tax evasion as a predicate offence to money laundering was withdrawn on the basis of a concession made by the counsel representing the Attorney General. This issue is therefore no longer a live issue in this case, however, the question has been asked whether this concession represents a statement of Government policy for the future or is it a concession made only for the purpose of the current case. The Cayman Law Society, the Caymanian Bar Association and the Bankers Association in letters to the Government have expressed their concerns as to the potential negative impact that would occur if it were allowed to change the public policy of the country, and have also requested clarification of the Government's position and the policy on this matter.

As far as this Government is concerned concessions made on this issue represents the policy of Government as set out in this statement and was one which appropriately and properly made. Madam Speaker, this is the public policy of these Islands as set out in this statement and one which is the policy that the Government of the Cayman Islands unreservedly supports. Thank you, Madam Speaker.

The Speaker: Thank you.

Suspension of Standing Order 23 (6)

The Speaker: Honourable Leader of Government Business, may I ask for a suspension of Standing Order 23(6) to allow for five questions to be asked in the name of the Second Elected Member from George Town.

Hon. W. McKeeva Bush: Madam Speaker, appearing on the business papers are five questions in regards to Cayman Turtle Farm asked by the Second Elected Member from George Town. We thought it appropriate since they are all related to answer all of them together. And we therefore, ask for the suspension of Standing Order 23(6) which would enable a Member to ask more than three questions.

The Speaker: The question is that Standing Order 23(6) be suspended.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(6) suspended to allow more than three questions standing in the name of one Member.

QUESTIONS TO HONOURABLE MEMBERS AND MINISTERS OF THE GOVERNMENT

The Speaker: The Second Elected Member for the district of George Town.

Question No. 58

No. 58: Mr. Alden M. McLaughlin, Jr., the Second Elected Member for George Town asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce why was the contract to rebuild the Turtle Farm not available for competitive tender.

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, the answer to the question is that a competitive pricing process was carried out by the farm. However, I wish to point out that the current Government tendering process is designed to make it difficult, if not impossible, for the smaller local contractors in these Islands to secure contracts for projects which they are quite capable of executing. This has been the case for many years, Madam Speaker, and far too many small contractors were left out. The big contractors in the country are the ones that have been benefiting for many years from the current process. Madam Speaker we are changing that and establishing a level playing field to ensure that value for money is obtained by the Government.

For those of us who have taken the time to research these matters we find some interesting developments with respect to the tendering process in the UK. In a report to the Prime Minister of the UK on Government Purchasing it states, "**Further evidence that the competitive tendering process is no guarantee of best value for money comes from our discussions with the private sector. Nearly all the companies visited saw receiving the bids in response to a competitive tender, not as the end of the purchasing process, but as one stage in it...there is evidence in the way in which foreign countries approach government purchasing which argues that a planned approach provides better value for money.**"

Madam Speaker, it is obvious to the astute observer that the competitive tendering process, although necessary in some instances when structured properly, does not always achieve the best price for the following reasons:

1. Some bidders who find themselves on the bid list may not have the capacity within their organization to carry out the works due to existing work commitments. As a result, these tenderers may submit inflated conforming bids to avoid embarrassment at

not being able to bid and to ensure they are asked to bid on future schemes;

2. Best value is not always identified through a rigid tendering process that is often compiled by over cautious architects and structural engineers. By allowing contractors, specialist suppliers and subcontractors to be involved from an early stage in the value engineering process, significant savings can be achieved together with more economical construction solutions that will ultimately benefit the end user and reduce the construction schedule;

3. Bidders are often required to complete a tender within an unreasonable time frame. This time frame is usually set by the project administrator, that is, Architect, Clients Project Manager and does not give sufficient time to obtain the most competitive quotations from suppliers and subcontractors. More often than not the 'designers' will take a year to complete the design and the bidders will be allowed two weeks; and

4. Bidders may be unconvinced that the projects will be awarded in strict conformance with tendering procedures. Buyers often initiate a tender process only to gain valuable estimating information to use as a negotiation tool with their preferred contractor. As a consequence, bidders may not be prepared to invest the time in the preparation of a detailed competitive bid, but instead just submit a fair and conforming bid that will satisfy the buyer.

Madam Speaker, the Cayman Turtle Farm (1983) Limited and United Contractors Ltd. signed a contract for the construction works associated with Phase II of the Farm's Redevelopment Plan on 16 July 2002. The contract price for this phase of the redevelopment is CI\$1,954,618.50 and includes the following items:

- The construction of a new breeding pond that will replace the one destroyed by Hurricane Michelle in November 2001.
- The civil works associated with the salt water supply and discharge system to the new breeding pond and associated tanks.
- The construction of a new seawall on the southward portion of the Farm's coastal property.

Madam Speaker I am happy to have an opportunity to again reiterate the facts as they relate to the awarding of the contract for Phase II of the redevelopment of the Cayman Turtle Farm to United Contractors Ltd. Honourable Members may recall that I did so in a press statement in July of this year.

Following the damage sustained by the Farm as a result of Hurricane Michelle, the decision was taken by the Government and the Farm's Board of Directors to relocate the Farm's operations to the landside of the property.

The conceptual development plan was prepared with the priorities being identified based on the re-

quirement to re-establish the complete programme that was in place prior to Hurricane Michelle. The breeding pond was identified as the most urgently required, as it was needed to house the remaining breeders in an acceptable environment.

Upon the completion of more detailed drawings it was agreed that Phase I should be the excavation of the new breeding pond. This was completed under the supervision of the Farm's Operational Department with technical assistance being provided by a local engineering consultant, APEC Engineering.

In relation to the construction works associated with Phase II, the Government was desirous to provide an opportunity for smaller local contractors to carry out these works. A number of established smaller contractors were identified as potential candidates for inclusion on a list of companies with whom a negotiated contract could be established. Subsequently, these four smaller local construction companies combined their resources and formed the locally registered company, United Contractors Ltd.

The Cayman Turtle Farm's Board of Directors agreed upon the following resolution in relation to these negotiations after much consideration:

"The Board of Cayman Turtle Farm (1983) Ltd. (hereinafter known as CTFL) hereby resolves to enter into a negotiated contract with preferred local contractor(s) for the construction of Phase II of CTFL's redevelopment plan.

"Be it further resolved that the contract price will be established after the preferred contractor(s) have priced the Bill of Quantities which will be compared to estimates of two (2) independent cost consultants using the same Bill of Quantities.

"Be it now therefore resolved that the Board award the construction contract, using the foregoing methodology, and subject to all other necessary professional advice and services".

The Managing Director was then given the responsibility for executing the resolution on behalf of the Board with the following actions being taken in relation to this matter:

The services of BCQS Limited were retained by the Farm to prepare a Bill of Quantities for the Phase II works that would form the basis of the pricing exercise that would be undertaken by both the preferred contractor and the Farm. After the Bill of Quantities had been prepared they were then priced by Deloitte & Touche Property Management, working on behalf of the contractors. The Farm also had the same document priced on their behalf by two quantity surveying firms, namely BCQS Limited and Trinjam Ltd., for the purpose of ensuring that a competitive price was obtained from the contractor.

Once the contractors, BCQS Ltd. and Trinjam Ltd. had submitted their proposed contract price to the Farm's management a review was carried out with a presentation being made to the Board of Directors. As a result of this presentation, the Board of Directors of Cayman Turtle Farm unanimously agreed upon the

above contract price and the contract was subsequently awarded to United Contractors Ltd.

The principals of United Contractors Ltd. are Mr. Garfield Ebanks, Mr. Ralph Wright, Mr. Dalkeith Ebanks and Mr. William McLaren. The principals of United Contractors Ltd. to date have been involved in numerous construction projects both locally and overseas. Due to the civil engineering nature of this contract the necessary professional services and personnel have been sub-contracted by United Contractors Ltd. to Deloitte & Touche Property Management and Mr. Lloyd Hew to ensure an effective execution of this job.

There are currently thirty (30) workers on site with much more required as the project progresses.

In conclusion, Madam Speaker, although this contract was awarded as a result of a negotiated contract with United Contractors Ltd., I have demonstrated that the Cayman Turtle Farm and its Board of Director's, through the process outlined in the answer, ensured that the ultimate contract price is a reasonable and competitive one.

The Speaker: Thank you. Before I ask for supplementaries, we have passed the hour of 11 am. Can I have a motion of the suspension of Standing Orders 23(7) and (8)?

Suspension of Standing Order 23(7) and (8)

Hon. W. McKeever Bush: Madam Speaker, I move for the suspension of Standing Orders 23(7) and (8) to allow questions to be asked after 11 am.

The Speaker: The question is that Standing Orders 24(7) and (8) be suspended to allow Question Time to continue beyond the hour of 11 am.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended in order for Question Time to continue beyond 11 am.

The Speaker: Are there any supplementaries. The Second Elected Member for the district of George Town.

Supplementaries

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

The answer has revealed that the contract price for this project is approximately \$2 million. I wonder if the Honourable Minister could say whether or not it is a general requirement that contracts for which Gov-

ernment is ultimately responsible, which exceed a hundred thousand Cayman Islands dollars should be routed and processed through the Central Tenders Committee.

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Madam Speaker, I think the Member got an answer to that already but if the substantive answer was not clear enough let me repeat: The tendering process in this country has always been geared to big contractors and the small contractors have been left out. Therefore, we and the Farm's Board took the position for negotiated contract, which is a standard procedure in the construction industry. So, we did not go through the Central Tendering procedures which were pointed out by the Second Elected Member; we went where we could ensure through a competitive bidding process that small contractors would get some work in this country that they can do.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. Is the Minister then saying that notwithstanding the established procedure and regulations this contract was entered into in breach of the relevant regulations relating to the award of Government contracts?

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Madam Speaker, the Member might know that the Chairman of the Central Tendering Committee is the Deputy Financial Secretary and he might also know that the Deputy Financial Secretary is a member of the Turtle Farm Board and ruled that we were doing right and that we could go in that direction because they had done it before.

The Speaker: Are there any other supplementaries?
The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I am anxious to determine whether this was entered into in breach of the established procedure and regulations or not. The fact that someone has breached the rules before is not . . .

The Speaker: Member, could you please put that into a question.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, if the first part of what I just said was a question, I am anxious to know whether or not this contract was en-

tered into in breach of established procedure and regulations.

The Speaker: Thank you. The Honourable Leader of Government Business.

Hon. W. McKeewa Bush: Madam Speaker, I think I answered it already but I will do it again. No, the precedent had been set.

The Speaker: The Second Elected Member for George Town. I will allow one more supplementary after this one.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I really was not interested in precedent; I was interested in whether or not the contract was entered into in accordance with regulations and established procedure.

Nevertheless, if I can move on to another aspect of the answer . . . The answer refers to the fact that **“A number of established smaller contractors were identified as potential candidates for inclusion on a list of companies with whom a negotiated contract could be established.”** A bit further on in the excerpt from the resolution of the Turtle Farm’s Board there is reference made to ‘preferred contractors’. My question to the Honourable Minister is: How were these potential candidates for inclusion in the list of companies with whom a negotiated contract could be established and these preferred contractors identified? In other words, what criteria were used and what process was used to determine who would be preferred contractors capable of inclusion in the list from whom the individuals who would be permitted to compete for this contract would be allowed.

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeewa Bush: Madam Speaker, the Member has four more questions on this matter and criteria are the basis of another question and at that point I will answer.

The Speaker: Are there any further supplementaries? If not, we will move on to the next question.

Question No. 59

The Speaker: The Second Elected Member for George Town.

No. 59: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce how many local contractors were asked to submit a tender for the contract to rebuild the Turtle Farm.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeewa Bush: Madam Speaker, as I have already outlined in my previous answer, very comprehensively I should say, four (4) established local contractors were selected as potential candidates. Subsequently, these companies combined their resources and formed the locally registered company, United Contractors Ltd.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

Arising from that response, may I ask the Honourable Minister what criteria were used to select the potential candidates?

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeewa Bush: Madam Speaker, I have just told the Member that he has a question that speaks of criteria. When he gets to that I will answer.

The Speaker: The Second Elected Member for George Town, Question No. 61 is fairly close to that. Are you satisfied to ask it under that heading? Thank you.

Are there any further supplementaries? If not let us move on the next question please.

Question No. 60

The Speaker: The Second Elected Member for George Town.

No. 60: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce how many contractors did the Board of the Turtle Farm consider prior to granting the contract to rebuild the Turtle Farm.

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeewa Bush: Madam Speaker, as I have already outlined in my previous answer, four (4) established local contractors were selected as potential candidates. Subsequently, these companies combined their resources and formed the locally registered company, United Contractors Ltd. It follows that four local contractors were considered but these four companies subsequently merged to form United Contractors Ltd.

The Speaker: Are there any supplementaries? We will move on to the next question.

Question No. 61

The Speaker: The Second Elected Member for George Town.

No. 61: Mr. Alden M. McLaughlin, Jr., asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce what criteria did the Board of the Turtle Farm use in selecting the contractor to rebuild the Turtle Farm.

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Although my comprehensive answer to the previous question dealt with this issue, I will repeat it.

The Cayman Turtle Farm (1983) Ltd. and United Contractors Ltd. signed a contract for the construction works associated with Phase II of the Farm's Redevelopment Plan on 16 July 2002. The contract price for this phase of the redevelopment is CI\$1,954,618.50 and includes the following items:

- The construction of a new breeding pond that will replace the one destroyed by Hurricane Michelle in November 2001.
- The civil works associated with the salt water supply and discharge system to the new breeding pond and associated tanks.
- The construction of a new seawall on the southward portion of the Farm's coastal property.

Madam Speaker I am happy to have an opportunity to again reiterate the facts as they relate to the awarding of the contract for Phase II of the redevelopment of the Cayman Turtle Farm to United Contractors Ltd. Honourable Members may recall that I did so in a press statement in July of this year.

Following the damage sustained by the Farm as a result of Hurricane Michelle, the decision was taken by the Government and the Farm's Board of Directors to relocate the Farm's operations to the landside of the property.

The conceptual development plan was prepared with the priorities being identified based on the requirement to re-establish the complete programme that was in place prior to Hurricane Michelle. The breeding pond was identified as the most urgently required, as it was needed to house the remaining breeders in an acceptable environment.

Upon the completion of more detailed drawings it was agreed that Phase I should be the excavation of the new breeding pond. This was completed under the supervision of the Farm's Operational Department with technical assistance being provided by a local engineering consultant, APEC Engineering.

In relation to the construction works associated with Phase II, the Government was desirous to provide an opportunity for smaller local contractors to carry out these works. A number of established smaller contractors were identified as potential candidates for inclusion on a list of companies with whom a negotiated contract could be established. Subsequently, these four smaller local construction companies combined their resources and formed the locally registered company, United Contractors Ltd.

The Cayman Turtle Farm's Board of Directors agreed upon the following resolution in relation to these negotiations after much consideration:

"The Board of Cayman Turtle Farm (1983) Ltd. (hereinafter known as CTFL) hereby resolves to enter into a negotiated contract with preferred local contractor(s) for the construction of Phase II of CTFL's redevelopment plan.

"Be it further resolved that the contract price will be established after the preferred contractor(s) have priced the Bill of Quantities which will be compared to estimates of two (2) independent cost consultants using the same Bill of Quantities.

"Be it now therefore resolved that the Board award the construction contract, using the foregoing methodology, and subject to all other necessary professional advice and services."

The Managing Director was then given the responsibility for executing the resolution on behalf of the Board with the following actions being taken in relation to this matter:

The services of BCQS Limited were retained by the Farm to prepare a Bill of Quantities for the Phase II works that would form the basis of the pricing exercise that would be undertaken by both the preferred contractor and the Farm. After the Bill of Quantities had been prepared they were then priced by Deloitte & Touche Property Management, working on behalf of the contractors. The Farm also had the same document priced on their behalf by two quantity surveying firms, namely BCQS Limited and Trinjam Limited for the purpose of ensuring that a competitive price was obtained from the contractor.

Once the contractors, BCQS Limited and Trinjam Limited had submitted their proposed contract price to the Farm's management a review was carried out, with a presentation being made to the Board of Directors. As a result of this presentation, the Board of Directors of Cayman Turtle Farm unanimously agreed upon the above contract price and the contract was subsequently awarded to United Contractors Ltd.

The principals of United Contractors Ltd. are Mr. Garfield Ebanks, Mr. Ralph Wright, Mr. Dalkeith Ebanks and Mr. William McLaren. The principals of United Contractors Ltd. to date have been involved in numerous construction projects both locally and overseas. Due to the civil engineering nature of this contract the necessary professional services and personnel have been sub-contracted by United Contractors Ltd. to Deloitte & Touche Property Management and

Mr. Lloyd Hew to insure an effective execution of this job.

Madam Speaker, as I said earlier, there are currently thirty (30) workers on site with much more required as the project progresses.

The Speaker: Are there any supplementaries?

The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I am grateful to the Honourable Minister for that long response but, with respect, he has not answered the question. He has merely reiterated much of the response which he provided in relation to my first question.

The questions asked, if I might draw the Honourable Minister's attention to it, what criteria did the Board of the Turtle Farm use in selecting the contractor to rebuild the Turtle Farm? In particular, I am anxious to understand on what basis did the Board or the Ministry, or whoever did the exercise, determine which smaller contractors would have the opportunity to participate in a bid or negotiations for this particular contract.

The answer refers to the inclusion of smaller contractors who were identified as potential candidates for inclusion on a list of companies with whom a negotiated contract could be established. How were these smaller contractors identified and how was it determined that they would be certain preferred local contractors? That is what I am seeking to ascertain.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, I think we pointed the criteria used. However, let me say further, their work reputation, they wanted to be as representative of the entire Cayman Islands as much as possible, their base of operations, their capacity to predominantly employ Caymanians, and their capacity and ability, which is the most important thing as far as I am concerned, to come in on time with the job and in accordance with the contracted amount.

The Speaker: Any further supplementaries?

The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I recall that when the announcement was made about the redevelopment of the Turtle Farm it appeared on the front page of the Caymanian Compass. I do not recall the date but I do recall that it was reported that this particular contract would go out for tender. I am all in favour of smaller Caymanian contracting companies being given the opportunity although that is not the issue. I am trying to ascertain whether there have been any advertisements or invi-

tations made publicly which would enable all established smaller contractors in the Cayman Islands to participate in this process and have an opportunity to negotiate this contract. I wonder if the Honourable Minister can tell us when this matter was publicly advertised and when invitations to tender or to participate in negotiations was made public.

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, perhaps the Member should research to find out whether there is such a thing as a 'preferred contractor' and I stated that earlier. He says he wants more small contractors to do it. As I said, we outlined the criteria and I do not think I can say anymore than that the criteria used was determined by the Board of the Turtle Farm. The small contractors were identified and awarded the contracts by the Board of the Cayman Turtle Farm. The Deputy Financial Secretary who is Chairman of the Central Tendering Committee and a member of the Board advised that there was no need to take the bid to CTC since we are a statutory authority and a private company in the matter. That procedure was used already so there was a precedent set.

I do not think that I can add any more to what the Member is trying to say.

The Speaker: I will allow one more supplementary.

The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I still have not determined from the Honourable Minister's response whether all smaller local contractors in the Cayman Islands had an opportunity to participate in this process to be able to negotiate this particular contract, or was the participation limited only to the four who have ultimately formed United Contractors Ltd.?

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, I believe that I have answered this question as thoroughly as I could. If he has any problem with who has been granted, let that be his problem. He should be happy that some small contractor got it. Certainly everybody could not get it. All Caymanians stretching from George Town, West Bay, including Cayman Brac. It was as wide as possible and transparently accomplished.

The important thing is that this will not be another Pedro Castle: the work will be done on time according to the wishes of the contract and the lawyers will see to that. I trust the contractors that we have and what is important is that it went out through a ten-

dering process. They got it and that is important enough; Caymanians will benefit. Probably they wanted some of their big contractor friends to get it. He shifted the argument as you can see he went from why it did not go to the Central Tendering Committee (when I pointed out that the only ones who got anything out of the Central Tendering Committee are the big contractors) and then shifted his argument to ask why it did not go to more people. It is not the 'more people' that they are concerned about or that would have been the substantive answer they are concerned about their friends in the large construction industry who did not get it. Caymanians got it and they will bring it in on time and it will be a job well done.

The Speaker: Madam Clerk, next question.

Question No. 62

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I thought we had finished with Question Time. The Honourable Minister was delivering a debate or something . . .

The Speaker: Please turn it into a question, Honourable Member.

No. 62: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce what relevant experience did the Contractor selected to rebuild the Turtle Farm have with this type of civil engineering construction.

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, when we finish answering these questions one thing that they will not be able to say is that they did not get information and that the names of the contractors have not been hauled through the House and public airwaves. As I said in my previous answer, the contract was awarded to United Contractors Ltd. The principals of United Contractors Ltd. have been the contractors responsible for major and numerous construction projects both locally and overseas; they have completed the following significant projects locally:

Paddington Place
William McLaren's Residence—West Bay
Dr. Fiona Foster's Residence—Webster's Estate
Dr. Marzouca's Residence—South Sound
Secret Gardens Apartment Complex—Bobby Thompson Way
Southern Skies Apartment—South Sound
Tropical Mews Apartments—Palm Dale

Silver Oaks Apartments—Crewe Road

Madam Speaker, due to the civil engineering nature of this contract the necessary professional services and personnel have been sub-contracted by United Contractors Ltd. to Deloitte & Touche Property Management and Mr. Lloyd Hew to ensure an effective execution of the specialised jobs.

The Speaker: Are there any supplementaries? If not, that concludes Question Time.

At this time we will take a suspension of the morning break.

Proceedings suspended at 11.38 am

Proceedings resumed at 12.20 pm

The Speaker: Please be seated. Proceedings are resumed.

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

The Adoption (Amendment) Bill, 2002

The Speaker: This Bill is deemed to have been read a first time and is set down for the Second Reading.

May I have a Motion for the suspension of Standing Orders 46(1) and (2)?

The Honourable Minister for Community Services, Could we now have that Motion for the suspension of the Standing Orders?

Suspension of Standing Orders 46 (1) and (2)

Hon. Linford A. Pierson: Madam Speaker, I beg to move the suspension of the relevant Standing Orders.

The Speaker: The question is that Standing Orders 46(1) and (2) be hereby suspended.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Orders 46(1) and (2) suspended to allow the following Bill to be read a first time.

The Travel (Departure Tax and Environmental Protection Fee) Bill, 2002

The Speaker: The Bill is deemed to have been read a first time and set down for a Second Reading.

SECOND READINGS

The Adoption (Amendment) Bill, 2002

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, it is my duty to present this amendment to the Adoption Law (1996 Revision) to the Honourable House. This Bill seeks to amend the Adoption Law (1996 Revision) by extending the provision of the Law to apply to children 16 years of age and younger. Currently the Law applies only to children who are 14 years and younger.

The proposed amendment to the Adoption Law to increase the age of adoption from 14 to 16 years is a critical one. It is important as it has significant implication primarily for family unification of married couples who are bringing their dependent children into this new family relationship. This amendment was being proposed in the overall revision to the Adoption Law which will be brought to this Honourable House at a later date. This particular amendment needs to be dealt with most urgently as there are currently a number of children who, although in the process of being adopted, have exceeded the age of 14 years but who are still dependent children being under age 17 years of age.

In each of these cases, adoption is deemed to be in the best interest of the child. In such situations I believe it is necessary for us to do whatever is humanly possible to ensure that these children are given the benefit of a stable home environment within which to grow up in order to assist them in becoming solid productive citizens of our community in the future.

Alternatively, to not support the age increase amendment and not allow the adoptive process to be completed, will add to the continuing social problems of displaced families and children growing up in our community with feelings of anomy; feelings of disconnection; feelings of no sense of community and feelings of being at odd with a society in which they live.

Madam Speaker, it should be noted that under the Maintenance Law, a man who marries or lives with a woman with a child, has a legal obligation to maintain that child whether or not he is the biological father of the child. In order for this same man to exercise any parental rights to that child or for the child to be able to have any security of being in these Islands as part of that family, the child must be legally adopted.

Many of the children who would be affected by this age limit have, in most instances, no other family to return to in their country of origin. Further, the fact remains that their birth father or mother has married a Caymanian and for all intents and purposes has now chosen to make their lives in the Cayman Islands.

We are all aware of the fact that the family life is under serious stress in Cayman. We are also aware of the many negative influences currently affecting our families. Adoption is a positive tool that facilitates family unity. This is not to say that adoptive families will not be affected by the same stresses as all other families. However, added to the already difficult equation of family life, a child denied the right to legally become a recognised member of the family through the adoptive process because of the current age limit will result in a teen who feels alienated from the society in which he lives.

Regrettably there are many teens in our Islands who have found themselves in this situation. I am of the strongest conviction that once all the relevant studies have been completed by the social workers that established the compatibility of the child with the home environment, and that above all the proposed adoption is in the child's best interest, then the process should be allowed to be completed. Further, a child 16 years old is still legally dependent on his parents, and as such the Law should extend to the upper age of 16 years.

As I previously stated, this amendment is actually a part of an overall proposal to effect changes to the current adoption legislation which we have seen is woefully inadequate. These revisions are underway and it had been hoped that the revamp law would have been dealt with earlier. However, as we are aware, other legislation took priority. The Law is being more closely scrutinised as other issues have arisen in the past few months that indicate areas that are problematic and unclear.

In light of this, and so as not to prevent the current group of children being adopted by people who have cared and want to continue caring for them, we seek the approval of this Honourable House in passing this amendment to increase the age of adoption from 14 years to 16 years.

Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Minister

Does any other Member wishes to speak? Last call. Does any other Member wishes to speak? If not I will recognise the Honourable Minister should he wish to exercise his right of reply.

Dr. the Hon. Frank S. McField: Just to thank all the Members for their support. It is an amendment, of course, that has been long overdue. I would like to apologise to those many families who have been inconvenienced because of the situation in which the Adoption Board has found itself in. Now that that situation has been corrected and we as Chairman of the Adoption Board, Mr. Ezzard Miller and other very competent persons who are interested in the adoption process, we hope that we will be able to bring relief, harmony and unity to these families that have been negatively impacted.

The Speaker: Thank you. The question is that a Bill shortly entitled The Adoption (Amendment) Bill, 2002 be given a Second Reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Adoption (Amendment) Bill 2002, given a second reading.

The Speaker: May I call upon the Honourable Deputy Leader for the Motion for the suspension of Standing Order 46(4).

Suspension of Standing Order 46 (4)

Hon. Linford A. Pierson: Madam Speaker, I move the suspension of Standing Order 46(4) to take the Second Reading of the Travel (Departure Tax and Environmental Protection Fee) Bill, 2002.

The Speaker: Thank you. The question is that Standing Order 46(4) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46 (4) suspended.

The Travel (Departure Tax and Environmental Protection Fee) Bill, 2002

The Speaker: The Bill is deemed to have been read the first time. I will now call on the Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to move the Second Reading of a Bill entitled A Bill for a Law to amend The Travel (Departure Tax and Environmental Protection Fee) Law (2002 Revision).

The Speaker: The Bill has been duly moved. Does the Honourable Mover wish to speak thereto?

Hon. George A. McCarthy: Madam Speaker, this Bill seeks to amend the Travel (Departure Tax and Environmental Protection Fee) Bill, 2002 in order to exempt in-transit travellers from the payment of travel tax and the Environmental protection fee.

It was never the intention of the policy makers, when this Law was introduced, that in-transit travellers should ever be liable to pay either the travel tax or the environmental protection fee. And this Bill seeks to correct that anomaly.

The Speaker: Thank you. Does any other Member wish to speak? Does any other Member wish to speak? Last call. Does any other Member wish to speak? If not, I will call upon the Honourable Third Official Member if he wishes to exercise his right of reply.

Hon. George A. McCarthy: Madam Speaker, just to say thanks to Honourable Members for their tacit support.

The Speaker: The question is that a Bill shortly entitled The Travel (Departure Tax and Environmental Protection Fee) Bill, 2002 be given a Second Reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Travel (Departure Tax and Environmental Protection Fee) Bill, 2002 given a Second Reading.

The Speaker: The House will now go into Committee to consider these Bills.

House in Committee at 12.34 pm

COMMITTEE ON BILLS

The Chairman: Please be seated. With the leave of the House may I assume that as usual we should authorise the Honourable Second Official Member to correct minor errors and such the like in these Bills.

Will the Clerk please state the Bills and read the clauses.

The Adoption (Amendment) Bill, 2002

Clauses 1 to 3

The Clerk: The Adoption (Amendment) Bill, 2002
 Clause 1 Short title
 Clause 2 Amendment of the Adoption Law 1996 Revision – definitions.
 Clause 3 Transitional

The Chairman: The question is that Clauses 1 through 3 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

The Clerk: A Bill for a Law to amend The Adoption Law 1996 Revision and for Incidental and Connected Purposes.

The Chairman: The question is that the Title do stand part of the Bill.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Title passed.

The Travel (Departure Tax and Environmental Protection Fee) Bill, 2002

Clauses 1 through 3

The Clerk: The Travel (Departure Tax and Environmental Protection Fee) Bill, 2002

Clause 1	Short title
Clause 2	Amendment of the Travel (Departure Tax and Environmental Protection Fee) Law (2002 Revision) – definitions.
Clause 3	Amendment of section 6 of the Travel (Departure and Environmental Protection Fee) Law (2002 Revision), Environmental protection fees.

The Chairman: The question is that clauses 1 through 3 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

Title passed.

The Clerk: A Bill for Law to amend the Travel (Departure Tax and Environmental Protection Fee) Law (2002 Revision) in order to exempt in-transit travellers from taxes and fees under the Law and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: The question is that the Bills be reported back to the House.

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

Ayes.

The Chairman: The Ayes have it. That concludes Committee stage.

Agreed that the Bills be reported to the House.

House resumed at 12.37

The Speaker: Please be seated. The House is now resumed.

REPORTS ON BILLS

The Adoption (Amendment) Bill, 2002

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, I have to report that a Bill entitled, The Adoption (Amendment) Bill, 2002 was considered by the Committee of the whole House and passed without amendment.

The Speaker: Thank you. The Bill has been duly reported and is set down for the Third Reading.

The Travel (Departure Tax and Environmental Protection Fee) Bill, 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I have to report that a Bill entitled, The Travel (Departure Tax and Environmental Protection Fee) Bill, 2002, was considered by a Committee of the whole House and passed without amendment.

The Speaker: Thank you. The Bill has been duly reported and is set down for the Third Reading.

Suspension of Standing Order 47

The Speaker: Deputy Leader, may I have a Motion for the suspension of Standing Order 47?

Hon. Linford A. Pierson: Madam Speaker, I move the suspension of Standing Order 47 to allow for the Third Readings of The Adoption (Amendment) Bill, 2002, and The Travel (Departure Tax and Environmental Protection Fee) Bill, 2002.

The Speaker: The question is that Standing Order 47 be suspended.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 47 suspended to all the Bills to be read a third time.

THIRD READINGS

The Adoption (Amendment) Bill, 2002

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, I move that a Bill entitled, The Adoption (Amendment) Bill, 2002 be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled, The Adoption (Amendment) Bill 2002, be given a Third Reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Adoption (Amendment) Bill 2002 given a Third Reading and passed.

The Travel (Departure Tax and Environmental Protection Fee) Bill, 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to move that a Bill entitled, The Travel (Departure Tax and Environmental Protection Fee) Bill, 2002 be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled, The Travel (Departure Tax and Environmental Protection Fee) Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Travel (Departure Tax and Environmental Protection Fee) Bill 2002 given a Third Reading and passed.

Condolences

The Speaker: Before calling for a motion on the adjournment from the Deputy Leader I should wish on behalf of Members who approached me to extend condolences to the family of two past MLAs namely, Mr. John Jefferson, Snr. and Mr. John Jefferson, Jr. for the passing of the wife and mother respectively. For that reason I think we are going to anticipate a motion for an early adjournment to accommodate those Members who wish to show their respect by their attendance to the funeral later this afternoon in the district of West Bay.

The Honourable Deputy Leader.

ADJOURNMENT

Hon. Linford A. Pierson: Madam Speaker, I move the adjournment of this Honourable House until tomorrow morning, Thursday, 12 September 2002 at 10 am.

The Speaker: The question is that this Honourable House do now adjourn until 12 September 2002 at 10 am.

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

Ayes.

The Speaker: The Ayes have it.

At 12.42 pm the House stood adjourned until Thursday, 12 September 2002, at 10 am.

OFFICIAL HANSARD REPORT
THURSDAY
12 SEPTEMBER 2002
3.54 PM
Third Sitting

The Speaker: I will invite the Deputy Leader of Government to grace us with Prayers.

Second Elected Member for Cayman Brac & Little Cayman who are both away attending a CPA Conference.

PRAYERS

Hon. Linford A. Pierson: Let us pray.

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

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

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

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

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

Proceedings resumed at 3.57 pm

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

Apologies

The Speaker: I have received apologies for absence from the Honourable Minister responsible for Community Services who is at a Water Authority function in his official capacity. I have also received apologies from the Member for East End, as well as from the

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

The Speaker: I have received no notice for any statements for this Sitting.

**QUESTIONS TO HONOURABLE
MEMBERS AND MINISTERS
OF THE GOVERNMENT**

The Speaker: Honourable Leader, before we go there perhaps you may want to move the Standing Orders 23(7) and (8) since we have passed 11 pm.

Suspension of Standing Orders 23(7) and (8)

Hon. W. McKeeva Bush: Madam Speaker, I propose to suspend Standing Orders 23(7) and (8) in order to take questions after 11 am.

The Speaker: The question is that Standing Orders 23(7) and (8) be suspended to allow Question Time to commence beyond the hour of 11 am.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Orders 23(7) and (8) suspended in order for Question Time to continue beyond 11 am.

The Speaker: May I now have the Motion for the suspension of Standing Order 23 (6)?

Suspension of Standing Order 23 (6)

Hon. W. McKeeva Bush: Madam Speaker, in order to have a Member ask more than three questions we propose to suspend Standing Order 23 (6).

The Speaker: The question is that Standing Order 23 (6) be suspended.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23 (6) suspended to allow more than three questions standing in the name of the same Member to be asked.

Question No. 63

The Speaker: The Second Elected Member for the district of George Town.

No. 63: Mr. Alden M. McLaughlin, Jr.: asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce if the contract to rebuild the dock in Cayman Brac was put out to competitive tender.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, the answer is no. However, let me elaborate.

Misener Marine Construction Incorporated, a heavy civil marine construction company based in Tampa, Florida, has been contracted to reconstruct the Creek dock in Cayman Brac. Misener Marine has a long history of working for the Port Authority in the Cayman Islands and it was this company that carried out the initial construction of the Creek dock in the early 1980s.

The Creek dock was severely damaged by Hurricane Michelle in November 2001, resulting in an insurance claim. The Port Authority's docks are insured under the umbrella of Government's insurance scheme and are administered through the Government's Risk Management Unit.

After some delay in finalising the insurance claim, the insurers and their adjusters agreed that a recognised company specialising in heavy civil marine works be used to prepare a cost estimate for the repair and immediately commence work.

The Port Authority's Board of Directors took the decision to engage Misener Marine to effect these repairs in an effort to expedite the process, as the dock was approximately 40 per cent inoperable. It was determined to be in the best interest of the people of Cayman Brac and the Cayman Islands to have this work completed without delay, and before further damage occurred which would have rendered the dock unserviceable. Misener Marine signed a contract with the Port Authority on the 24 June 2002 to repair the dock and agreed to utilise local labour and purchase materials locally. The contract period for this project is from 24 June to 31 October 2002. The scope of the contract requires that the deck of the dock be replaced and repairs done to the pile caps and seawall. The contract price is C1\$3,584,208.73.

The Government's Risk Management Unit and their brokers reviewed Government's policy and found that there was no requirement for the Port Authority to tender the project. This position was discussed with Government's primary insurance carrier, Cayman General, and they concurred.

The insurance company has agreed to finance the repairs to the dock less the deductible. Drawdowns of these funds are controlled by the insurance company. All invoices for payments to the contractor are closely monitored and approved on the insurer's behalf by their Quantity Surveyor before disbursements are made. The Port Authority of the Cayman Islands has retained the services of CE&S, a local engineering consulting firm whose principal is from Cayman Brac, as Project Manager/Quantity Surveyor.

The Speaker: Are there any supplementaries?

The Second Elected Member for George Town.

Supplementaries

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I wonder if the Honourable Minister could say whether or not it is usually the practice for contracts of this size, which are being awarded by Government statutory authorities, to be processed through the Central Tenders Committee.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, as the substantive answer says, "The Government's Risk Management Unit and their brokers reviewed Government's policy and found that there was no requirement for the Port Authority to tender the project. This position was discussed with Government's primary insurance carrier, Cayman General, and they concurred."

The Speaker: Any further supplementaries?

The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I am grateful to the Honourable Minister for that, but he has not responded to my question. He simply repeated the substantive answer. My question is: Is it not usual for contracts of this size which are being proposed to be entered into by a Government statutory authority to be processed through the Central Tender's Committee?

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, I just said to the Member that the Government's Risk Management Unit reviewed Government's policy and found that there was no requirement for the Port Authority to tender the project. So, the Board authorised the bid.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, perhaps I am not making myself clear. Let me try again.

I fully understand that there is no regulation requiring Government's statutory authorities to have their contracts dealt with in the same way as Central Government does. My question to the Honourable Minister is: Has it not been the usual practice for contracts of this nature and size, which are proposed to be entered into by a Government statutory authority, to be processed through Central Tenders Committee in the same way that a Government department within Central Government would be required to do?.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, some authorities send some projects to Central Tender for review and others do not. I have already spoken about the nature of the contract and the urgency of the matter, and the people who built the Cayman Brac dock initially. So, I cannot give the Member any more information than that.

The Speaker: Any further supplementaries? I will allow one more after this one.

The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I wonder if the Honourable Minister could say in the absence of a competitive tender how is it that the Port Authority has determined that the contract price of \$3.5 million or thereabouts is fair and competitive.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, the Member has the substantive question in his hand. I have already told the House in the substantive answer that the insurance company agreed to finance the repairs to the dock less the deductible. The drawdowns of these funds are controlled by the insurance company. All invoices for payments to the contractor are closely monitored and approved on the insurer's behalf by their Quantity Surveyor before disbursements are made.

So, Madam Speaker, it is the insurance company that is paying; they authorised the Tender and they control the whole project. So, maybe that is clear enough to the Member.

The Speaker: The Second Elected Member for West Bay.

Mr. Rolston M. Anglin: Madam Speaker, it would seem as though the Second Elected Member from George Town has a fundamental lack of understanding of finance matters.

The Speaker: Could you please turn that into a question?

Mr. Rolston M. Anglin: Madam Speaker, can the Minister please, for this Honourable House, state the nature of the bid. In other words, is this a bid by the Government authority called the Port Authority or is this a repair of the Port that is being covered by insurance funds?

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, the project, as I said, is being covered by the insurance company; monitored by the insurance company and invoices paid by the insurance company. So, I would think that is clear for all to understand.

The Speaker: Madam Clerk, next question please.

Question No. 64

The Speaker: The Second Elected Member for George Town.

No. 64: Mr. Alden M. McLaughlin, Jr.: asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce why was the contract to rebuild the dock in Grand Cayman granted to a foreign company.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, the rationale for granting the contract to rebuild the Creek dock in Cayman Brac to a foreign company, Misener Marine Construction Incorporated, which is a heavy civil marine construction company based in Tampa Florida, is as follows: Misener Marine has a long history of working for the Port Authority of the Cayman Islands and it was this company that carried out the initial construction of the Creek dock in the early 1980's.

The Creek dock was severely damaged by Hurricane Michelle in November 2001, resulting in an insurance claim. The Port Authority's docks are in-

sured under the umbrella of Government's insurance scheme and are administered through the Government's Risk Management Unit.

After some delay in finalising the insurance claim, the insurers and their adjusters agreed that a recognised company specialising in heavy civil marine works be used to prepare a cost estimate for the repair and immediately commence work.

The Port Authority's Board of Directors took the decision to engage Misener Marine to effect these repairs in an effort to expedite the process, as the dock was approximately 40 per cent inoperable. Madam Speaker, it was determined to be in the best interest of the people of Cayman Brac and the Cayman Islands to have this work completed without delay and before further damage occurred which would have rendered the dock unserviceable. Misener Marine signed a contract with the Port Authority on the 24 June 2002 to repair the dock and agreed to utilise local labour and purchase materials locally. The contract period for this project is from 24 June to 31 October 2002. The scope of the contract requires that the deck of the dock be replaced and repairs done to the pile caps and seawall. The contract price is CI\$3,584,208.73.

The Government's Risk Management Unit and their brokers reviewed Government's policy and found that there was no requirement for the Port Authority to tender the project. This position was discussed with Government's primary insurance carrier, Cayman General, and they concurred.

The insurance company has agreed to finance the repairs to the dock less the deductible. Drawdowns of these funds are controlled by the insurance company. All invoices for payments to the contractor are closely monitored and approved on the insurer's behalf by their Quantity Surveyor before disbursements are made. The Port Authority of the Cayman Islands has retained the services of CE&S, a local engineering consulting firm whose principal is from Cayman Brac, as project Manager/Quantity Surveyor.

The Speaker: Are there any supplementaries?
The Second Elected Member for George Town.

Supplementaries

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. May I ask the Honourable Minister what is the deductible referred to in the substantive answer?

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, \$250,000.

The Speaker: Are there any further supplementaries? If not we will move on to the next question.

Question No. 65

The Speaker: The Second Elected Member for George Town.

No. 65: Mr. Alden M. McLaughlin, Jr.: asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce what type of Trade and Business License does Misener Marine possess which allows it to undertake construction work in the Cayman Islands.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, I can confirm that since June of this year Misener Marine Construction Incorporated has been working with a local law firm to complete the process of obtaining a Trade and Business Licence. It is my understanding that the process is nearing completion and the licence should be issued shortly. Notwithstanding this, it was imperative that the work proceed without delay in order to ensure a continuous supply of goods and products to the people of Cayman Brac in the future.

The Speaker: Are there any supplementaries?
The Second Elected Member for George Town.

Supplementaries

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I wonder if the Honourable Minister could inform this House on what basis can a foreign company carry on business in the Cayman Islands without a trade and business licence. What I am getting at: Is there some authority to exempt to such a company from the provisions of the trade and business licences law, or is there some executive authority that has been exercised in this particular case?

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, the Port Authority had discussions on the urgency of the matter and discussions were held with Immigration and the Trade and Licensing Board and they agreed for the company to begin because of the nature and the urgent need for the renovation of the dock. And that is where the permission came from.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I am not sure I understand the Honourable Minister. His substantive answer says they have been in the process of seeking to obtain a licence. Is the

Honourable Minister saying that there is some provision in the legislation, which permits the Immigration Board or the Trade and Business licensing Board, or someone else to grant permission to a foreign company to operate in Cayman in the absence of a trade and business licence?

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, the Member is being very facetious because I certainly said that the discussion was held between the Immigration Department and the Trade and Business Licensing Board and they agreed. So, if he feels that they are not working within the Law then he can go ahead and tell them that, but when the Government of the Cayman Islands needs something and when there is an emergency as this one is, it must take the position that can get the job done, and that is simply what has happened. In the meantime the licence is being worked on.

The Speaker: The Second Elected Member for West Bay.

Mr. Rolston M. Anglin: Madam Speaker, can the Minister say whether or not he is aware of a ruling in the Courts of the Cayman Islands back in the mid-1980s that dealt with the whole issue of foreign companies coming to the Cayman Islands to do what is seen to be one-off projects and ruling that in such an instance a trade and business licence would not be required?

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, it seems that there was a challenge in Court back then and the Trade and Business Licence and the Immigration thought it best that these people (notwithstanding that case) still apply for a licence, but in the meantime allow them to start the work so the people of Cayman Brac could be serviced.

The Speaker: The Second Elected Member for West Bay.

Mr. Rolston M. Anglin: Thank you, Madam Speaker. Can the Minister confirm that the now Chairperson of the Trade and Business Licensing Board and the persons responsible in the Department of Immigration felt it prudent because they felt as though that particular ruling could lend itself to abuse, that is, it could be argued that persons could come to the Cayman Islands and do single one-off projects such as building hotels and other large complexes that would have been caught in the ambit of that ruling and therefore,

would not be in the best interest of the Cayman Islands.

The Speaker: Honourable Leader, in my view he is asking for an opinion but if you wish to elucidate then please feel free to do so.

Hon. W. McKeeva Bush: Madam Speaker, I would think that the Immigration Department and the Chairman of the Trade and Business Licensing Board were prudent in the decision that they made, and that is as far as I will go.

The Speaker: Do you have a follow up Second Elected Member for West Bay?

Mr. Rolston M. Anglin: Yes, Madam Speaker.

The Speaker: Please continue.

Mr. Rolston M. Anglin: Madam Speaker, I would ask for the Leader of Government Business to give an undertaking to the House to request that that particular matter be followed up and resolved in the best way that would be seen fit whether legislatively or otherwise to clarify that particular point.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, I will certainly give that undertaking. Just to say that this is not normal for us, but seeing the nature of the work and the urgency of it and the blessings and guidance of the Immigration Department and the Licensing Board we started the work.

The Speaker: The Fourth Elected Member for the district of West Bay.

Mr. Cline A. Glidden, Jr.: Thank you, Madam Speaker. I wonder if the Minister could tell us due to the urgency and the critical necessity of this dock for the people of Cayman Brac (I am sure you would also be interested in knowing) whether the project is on schedule and when the completed date would be, to make sure that we do have the dock facility available to the people of Cayman Brac.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeeva Bush: Madam Speaker, I understand that the work will be 83 per cent completed by the end of September and expected to be completed by the 31 October. If we had done what the Second Elected Member from George Town seemingly wanted to be done, it would not have started yet.

The Speaker: Are there any further supplementaries? If not we will move on to the next question.

Question No. 66

The Speaker: The Second Elected Member for George Town.

No. 66: Mr. Alden M. McLaughlin, Jr.: asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce if the contract for the proposed new port facility in George Town would be put out to competitive tender.

The Speaker: The Leader of Government.

Hon. W. McKeever Bush: Madam Speaker, the answer is yes. The contract for the proposed new port facility in George Town will be put out to competitive tender.

The Speaker: Are there any supplementaries?
The Second Elected Member for George Town.

Supplementaries

Mr. Alden M. McLaughlin, Jr.: May I then ask the Honourable Minister whether this proposed tendering process will be routed through the Central Tenders Committee.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeever Bush: Madam Speaker, the requests for tenders are already out, and papers have been issued to at least six big contractors. I hope they are happy.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Minister state if Misener Incorporation will be allowed to tender or to place a bid?

The Speaker: The Honourable Leader of Government.

While waiting on a response, I should have asked earlier when the Sitting started, if you, the First Elected Member for George Town, would wish for me to continue referring to you as that, or as the Leader of the Opposition.

[inaudible response]

The Speaker: Thank you.
Honourable Leader of Government.

Hon. W. McKeever Bush: Madam Speaker, I understand from the Port staff that Misener Marine has not been involved in this.

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

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. The Honourable Minister in his response to my supplementary did not answer my question. My question was whether or not the tendering process would be routed through Central Tenders Committee.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeever Bush: Madam Speaker. No, the Board is making the necessary arrangements for the competitive tender. And as I said, papers have already gone to, I believe, six huge companies – big companies.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, the Honourable Minister has referred to the fact that the Board is making the necessary arrangements. I wonder if the Honourable Minister would be kind enough to be a bit more specific than that. Can he tell us a bit more about the tendering process? We know what the tendering process is when these matters are dealt with through the Central Tenders Committee and I wonder if he could enlighten us in relation to the process now that it is being done in-house.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeever Bush: Madam Speaker, the Board is following the same procedure that the Central Tenders would follow.

The Speaker: Any further supplementaries? If not we will move on to the next question.

Question No. 67

The Speaker: The Second Elected Member for George Town.

No. 67: Mr. Alden M. McLaughlin, Jr.: asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce why did the Port Authority terminate the services of the local architectural and engineering firms that were in the process of completing drawings for the proposed new port facility in George Town.

The Speaker: The Honourable Leader of Government.

Hon. W. McKeever Bush: Madam Speaker, the Port Authority made the decision to terminate the service of the local architectural and engineering firms (CGMJ) because they were unable to meet the agreed schedule for 100 per cent completion of all architectural and engineering drawings.

The Speaker: The First Elected Member for George Town.

Supplementaries

Mr. D. Kurt Tibbetts: Can the Minister state if this being the case in terminating that contract and having to contract someone else did that allow for the schedule to be met, or did it at the end of the day extend that time beyond?

The Speaker: The Honourable Leader of Government.

Hon. W. McKeever Bush: Madam Speaker, my understanding from the staff here is that if they had not moved then, the overall project would not be on schedule. Right now it is on time.

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, the Honourable Minister in his answer to question No. 66 indicated that the tendering process was underway. Can that be then taken as an indication that the architectural engineering drawings are now complete and form part of the tender package?

The Speaker: The Honourable Leader of Government.

We have reached the hour of 4.30 pm but because we are in the process of answering supplementaries I will continue until they have concluded before I ask for the Motion.

Hon. W. McKeever Bush: Madam Speaker, what I understand from the staff is that they have used the drawings that were completed – those that could be used and they will use those to . . . I need to get further clarification on this, Madam Speaker.

[Pause]

Hon. W. McKeever Bush: As I said, the drawings that they have would be used to assist the tender. Whoever gets the job will complete the drawings, but work will begin in the meantime and not be delayed. The work is design and build and construction can start

immediately. That is why I said that we are not going to be delayed in the overall schedule.

The Speaker: Are there any Supplementaries? I will allow one more.

The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I wonder if the Honourable Minister could explain how it is possible to have the contract put out to tender. That is the contract for rebuilding, renovation, or reconstruction of the port, on the basis of architectural and engineering drawings which are not yet complete. What sort of basis does anyone who is bidding have in determining what the contract price should be?

The Speaker: The Honourable Leader of Government.

[Pause]

Hon. W. McKeever Bush: Sorry to take some time to get the information, Madam Speaker.

As I said, the strategy being used is to design and build. The strategy that was used before was complete design and then to award the contract to build. The Port Authority feels that this strategy that is being used now can work because it is something that is used throughout the construction industry and it is a way of getting the work done on time.

The Speaker: Honourable Leader, may I have the Motion for the adjournment.

ADJOURNMENT

Hon. W. McKeever Bush: Madam Speaker, before I do that I would like to say, you have heard the Opposition asking these questions about tendering procedures. You heard them go to the point of near accusation and of course many inferences in their questioning.

On this particular question (the last one just asked), and I will read it: “**Why has the Port Authority terminated the services of the local architectural and engineering firms that were in the process of completing drawings for the proposed new port facility in George Town?**” You notice that they did not ask who it was because that person is their big supporter. And this which was done last year was not tendered and they knew that, Madam Speaker, but they would not go that route.

Madam Speaker, I move the adjournment of this Honourable House until a date to be set in November.

The Speaker: Members, there are still a number of questions on the Order Paper. Is it the intention that they will go forward for the November Sitting?

Hon. W. McKeever Bush: Madam Speaker, what we will do is adjourn for a date to be set and matters that are still outstanding will as usual fall over to the next meeting.

The Speaker: Thank you. The question is that the Honourable House be adjourned for a date to be set.

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

Ayes.

The Speaker: The Ayes have it.

At 4:42 pm the House stood adjourned until a date to be set in November.

OFFICIAL HANSARD REPORT
MONDAY
4 NOVEMBER 2002
10.52 AM
First Sitting

The Speaker: I will invite the lady Member for the district of North Side to grace us with Prayers.

PRAYERS

Ms. Edna M. Moyle: Let us pray.

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

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

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

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

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

Proceedings resumed at 10.54 am

The Speaker: Please be seated. Proceedings are resumed.

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

The Speaker: I have received no notice for messages or announcements for this morning.

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

**Restructuring of the Residential Youth Facilities—
Funded by the Department of Social Services**

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, Honourable Members of the Legislative Assembly, I would like to give a statement on the restructuring of the programs for the residential youth facilities that are operated and funded by the Department of Social Services. Upon taking up office as the Minister responsible for Youth and Social Services in November 2001, I made the decision to review the various initiatives, reports, studies and policies that had been undertaken in the past in these two areas. In reviewing this data, it was clear to me that the major focus of my Ministry would have to be the youth.

Honourable Members of the Legislative Assembly are reminded of the report from the Committee of the Inquiry into the Causes of Social Breakdown and Violence Among Youth in the Cayman Islands. That was tabled in this Honourable House in 2001. It was also evident from this report that youth, especially those who are or may become at risk, was an area that I would need to pay special attention to. When I speak of an at-risk young person, I am speaking of one, who because of one or more factors in a syndrome of disadvantage traits, behaviour and circumstance, is in danger of being unsuccessful in school and/or in danger of having some social, emotional, physical or economical difficulties now or in the near future.

Since that time, after having consulted with various stakeholders of the youth I decided to take a preventative rather than a curative approach to the problems faced by our young people. In this regard, I made the decision to restructure the programmes offered at the residential youth facilities that were funded through the Department of Social Services.

As part of this restructuring exercise the Bonaventure Boys Home will operate as a caring home for boys and the Frances Bodden Girls Home will cater only to girls. The Boys' Home on Middle Road and the Place of Safety will be turned into reporting centres. These four centres, along with the proposed new wilderness camp, will provide a continuum of care for all categories of our at-risk youth.

To better manage this continuum of care, a new company will be set up in which the sole member

will be the Governor in Council. It is intended that the company should be a not-for-profit corporation, thereby obtaining the benefits of section 80 of The Companies Law (2002 Revision), and limited by guarantee and not by share capital.

It is proposed that the sole subscriber to the Memorandum of Association should be the Governor in Council and that the guarantee be limited to \$1. The company will be registered under the provisions of the Law. The Governor will vote in a Board of Directors who will manage the company. This Board will then sign a contract to manage the above facilities and the various programs to achieve the objects of the company. The agreement with the Government will be similar in purpose to the one presently in place with associated Marine Institute Incorporated, and the Cayman Islands Marine Institute. It is proposed that the company will be called a foundation to underline its social and charitable status and to attract donations and fund raising.

There are two other agencies besides the Social Services Department that will also play a role in this continuum of care: Her Majesty's Prison (HMP) Northward and the National Council of Voluntary Organisations. The Government will continue to work along with families, extended families and other members of the community who are willing and able to assist with children who are in need of care and protection. The Government will also continue to partner with the National Council of Voluntary Organisations (NCVO) in providing a caring environment for children who are in temporary or permanent need of care.

Honourable Members of the House are aware that our young offenders and juvenile prisoners are now presently being housed with the adult male prisoners. This year a new facility is being constructed to house these young people.

Madam Speaker, I will now give a brief outline of the program of each of the above-named facilities. I will begin by outlining first the Ministry's philosophy for the operation of the Bonaventure Home and the Frances Bodden Home.

Full-time residential care is a specialist resource. It is expensive to provide and should be used as a last resort for purposeful intervention in a child's life. Residential care is a positive and desirable way of providing stability and care for some. Residential care remains a vital resource, but it is essential to see it as part of the overall network of services for children, used in a planned and appropriate way and in the best interest of the individual child.

The operation of the Homes must be constantly and carefully monitored. Any management team or organisations responsible for these Homes should have effective management structures that guide, support, monitor and control all aspects of their work. The programs in these Homes must be flexible and adjust to meet the particular needs of children during the various phases of care and adopt suitable approaches to their upbringing. Some of these children have suffered the most distressing life experi-

ences and working with them calls for skill and sensitivity.

The major principle underlying the operation of the Home is the partnership between the social workers, health services, educators, parents, those with paternal responsibilities, the extended families in decision-making, proper planning and review. The children should also be involved and encouraged to participate in making decisions regarding their lives and future. A child's placement should not be seen in isolation from the overall services which will provide support to families and to children in need. It is envisaged that an increasing variety of imaginative and positive approaches to the residential care of children will be developed in order to guide or turn young lives in the right direction. Services should be directed towards supporting and helping the family as a unit to prevent the need for children to be received into caring homes.

Reception into residential care should be well planned and should be part of a longer-term plan to return the child to the family homes. If a return to the home environment does not prove to be a viable option, the children should be provided with permanent substitute family care until this is resolved, if possible. Residential childcare is not an easy option, but is the last resort when all else fails. However, it has positive roles to serve and is only effective if these roles are carried out completely and efficiently.

Madam Speaker, we intend to introduce the concept of reporting centres: one for the middle and high school aged children, and the other will cater to the primary school aged children.

First, there is the Hope Centre which will cater to middle and high school students. The Hope Centre has two distinct but complementary functions. Its main aim is preventative work with children and young people at risk. The first function is a program to combat truancy from 9 am to 3 pm Monday to Friday. The Centre will function as a place to assist young people who are skipping school on a regular basis.

Honourable Members of the Legislative Assembly, some 200 children are skipping school on a daily basis, sometimes unknown to their parents. This is a large number of our children who are missing the opportunity for an education, and these are too many truants for one truancy officer to be responsible for. Once this Centre opens, any young person found wandering or loitering during school hours without good reason will be picked up by the Police and handed over to the Hope Centre.

The staff of the Centre will make the necessary contact with the school and the parent or guardian and assess the reason(s) for non-attendance at school. The child will be returned to school after arrangements have been made to address the cause of the problem for non-attendance at school and to monitor his/her future attendance. The staff at the Centre will also meet with the parents or guardians of the child to ensure parental involvement in the program.

This Centre is not intended to be used as a baby-sitting service, but rather to provide young people with positive, comfortable and productive environments during unsupervised after-school hours. This should assist working parents who must usually leave their children unattended during the evening hours.

The second function of the Hope Centre is to provide after-school guidance to young people who are at risk. From 3 pm to 9.30 pm Monday to Friday the Centre will cater to young people identified by schools, churches, social workers and the court to be at risk. Parents or guardians may also request assistance for children who they may consider to be at risk.

At the start of the afternoon sessions there will be snacks and someone to greet the young people. After settling down they will be assisted by staff in completing their homework assignments or they may engage in a self-directed, positive activity. The Centre will offer a range of activities including art, drama, music, counselling, group work, sewing, board games, computing and outside games. Parents or guardians will collect their children and the Centre will be closed at 9.30 pm.

I will now talk about a new venture for 2003, the Wilderness Camp. The aim of the Wilderness Camp is to address a child's unacceptable behaviour by means of a systematic behavioural regime. In essence, the Wilderness Camp is a more intense form of the program followed at the homes. The project is aimed primarily at those young people who do not respond positively to the regimes in the homes and who behave in a manner that pose a threat to themselves and/or other young people in the home. It could also be used as a transition for those young people housed at HMP Northward.

Wilderness therapy is the purest form, and is a positive growth experience where young people face natural challenges and adversities that are designed to be therapeutic in nature. Young people are not merely thrown into the wilderness and made to suffer hardships. They are removed from their environment, encouraged, challenged and given every opportunity to succeed. The Wilderness is seen as both a place of safety and of natural consequences where young people can look at their lives and consider what they were doing, what they were thinking, how that made them feel, what they want and what they are willing to do to make that happen.

The Wilderness is a place to take action where initiative is naturally rewarding. The Wilderness Camp is a short-term high intensity camp that helps motivate young people. It is especially designed to help young people who are struggling in their homes, school or community. These short-term camps range from 60 to 90 days. The Wilderness Camp is designed for instilling the importance of consistency and obedience. If behavioural change is not forthcoming, the period can be extended. Young people may be involved in behavioural modification programs for three months and longer. This type of program offers a

more secure environment where the young people are in a residential-type environment. Change is emphasised strongly with a highly structured program starting at 7 am and continuing until 9 pm. The programs have a merit system where young people progress and earn more privileges as good attitude, work ethics and confirming behaviour are demonstrated. When young people make a negative choice, there are consequences and they are re-directed. This helps them make better choices.

Madam Speaker, this type of approach is effective in addressing long-term problems and helps young people with emotional growth as well as behavioural modification. The Wilderness Camp will help strip away old attitudes and replace them with new attitudes. The Wilderness Camp works on a reward/punishment basis where positive decisions will be rewarded with privileges and trust. Negative decisions will be confronted and redirected to making better choices.

Wilderness Camps and programs change behaviour. The structure and goal of these programs is to change young people's way of thinking. With a new way of thinking, young people get away from old friends, attitudes, habits and behaviours. With a new thought process, they are able to start developing new choices, attitudes, and behaviours. Young people learn that smart choices lead to positive rewards, and these types of programs are a positive reinforcement for young people who see trends that help them ultimately succeed.

All programs focus on the development of life-management skills needed to make a successful journey to responsible adulthood. Some young people may require a longer stay at a behavioural modification program. Behaviour modification programs get at the root of problems and give young people a long enough time to develop and see positive trends in their lives. Young people often feel they are entitled to current privileges and comforts without any effort on their part. This is far from reality. In nature, if you want warmth, shelter or food you must do something to procure it. A Wilderness Camp operates under these premises.

Participants experience a lifestyle that reflects what it would be like for them if they did not have what their parents or others have provided for them. All participants live in basic accommodation, sleep either on the floor or construct their own beds and cook their own meals. This brings me to the last facility in the continuum of care for our young people, the last resort—the juvenile unit at Her Majesty's Prison Northward.

Despite all efforts made, there will be young people who test the rules, break the law and will end up at Northward. It is my hope that as the Government, communities and the private sector continue to partner in putting in place more preventative programs for our young people, the numbers at prison will decrease. However, this will take some time.

As part of the integrated package of treatment, a special unit with a capacity for 14 juvenile males is being created in the prison. This unit will be called Chapter House and is scheduled to open at the end of February 2003.

Physically, Chapter House will have 7 double cells; it will have its own entrance away from the main gate lodge and will be fenced and screened to ensure separation from the main prison. The staff working with juveniles will be specially selected and trained. Two teachers/counsellors are being recruited for this team. The regime will be brisk and positive with the emphasis on education. The young people will undergo detailed assessment and reception and an individual care and sentence plan will be developed in consequence. The regime will be designed to be compatible with the regimes operating at Bonaventure Home and the new Wilderness Camp.

The intention is to use Chapter House as a stabilisation vehicle for young people either at the start of their sentence or at a point where they are no longer responding to the opportunities in the other more open facilities, and are becoming a risk to themselves, other juveniles in the program or the public. It is important to view this secure facility as part of the continuum of treatment and not as an end in itself. The presumption will be that juveniles will be held in the lowest level of physical security, compatible with their need and that of the community.

Madam Speaker, there is a problem with our young people. This is shown by the number of men in prison, some 217 compared with only 27 females at Fairbanks. Many of our young men are getting involved in unacceptable behaviour from an early age. Many studies and policies have been produced, and we are now finally in the process of implementing many of the recommendations made in these studies. As the Minister responsible for Youth and Social Services, I have until 2004, and I intend to spend that time making changes for the benefit of the people of the Cayman Islands, especially the youth and the elderly.

Madam Speaker and Members of this Honourable House, I would like to thank all the persons who have assisted in making this vision of mine a lot clearer and more of a reality. I would especially like to thank my colleagues and the Executive Council and the United Democratic Party for believing in this vision and for giving me their support. I would like to make special mention of the Minister of Education, who has given his support in ensuring that our young people in residential care be given the opportunity of an education within the educational system.

We cannot continue to build separate schools for our young people who are at risk. They can and should be integrated back into the educational system as soon as a support system can be put in place for them. Our young people are our most valuable resources. They will be the citizens of tomorrow who will be called upon to steer the good ship Cayman and we have to provide for, guide and trust them. We cannot

continue to build prisons, remand centres and other institutions to lock them away from society. The problem is at our door step. We can continue to put band-aids on it or we can fix it. I say we fix it.

Madam Speaker, and Members of this Honourable House, thank you for giving me the opportunity to update you on this restructuring of the residential youth facilities funded by the Department of Social Services on behalf of the Cayman Islands Government.

The Speaker: Thank you, Honourable Minister.

QUESTIONS TO HONOURABLE MEMBERS AND MINISTERS OF THE GOVERNMENT

The Speaker: As we have now passed the hour of 11 am, I will call on the Honourable Deputy Leader to move for the suspension of Standing Order 23(7) and (8).

Suspension of Standing Order 23(7) and (8)

Hon. Linford A. Pierson: Madam Speaker, I move the suspension of the relevant Standing Orders to allow for Question Time.

The Speaker: Thank you. The question is that Standing Order 23(7) and (8) be suspended to allow Question Time to begin beyond the hour of 11 am.

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

Ayes.

The Speaker: I believe the Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended in order for Question Time to be taken beyond 11 am.

Question No. 46

(Deferred)

(Carried forward from the Third Meeting of the Legislative Assembly)

The Speaker: The Elected Member for the district of East End.

No. 46: Mr. V. Arden McLean asked the Honourable Third Official Member responsible for Finance and Economics what is the status of the financial audit of the Drugs Task Force.

The Speaker: The Honourable Third Official Member.

**Deferral of Question No. 46
Standing Order 23(5)**

Hon. George A. McCarthy: Madam Speaker, in accordance with Standing Order 23(5), I would like to crave the indulgence of this Honourable House for the answer to this question to be deferred until a later Sitting of this Meeting. The reason being, in answering this question it will require the input of the Commissioner of Police who is presently off the Island.

The Speaker: The question is that in accordance with the provision of 23(5) Question No. 46 be deferred until a later sitting.

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

Ayes and Noes.

The Speaker: The Ayes have it.

Ms. Edna M. Moyle: Can we have a Division?

The Speaker: Certainly, lady Member for North Side. Madam Clerk, can we have a Division, please?

[Pause]

The Speaker: Madam Clerk, in light of the contribution from the Third Official Member, can you direct the Serjeant to re-collect whatever has been handed out in regards to Question 46?

Please proceed with the Division thereafter.

Division No. 7/02

Ayes: 9

Hon. W. McKeeva Bush
Hon. Linford A. Pierson
Hon. Gilbert A. McLean
Dr. the Hon. Frank S. McField
Hon. James M. Ryan
Hon. David F. Ballantyne
Hon. George A. McCarthy
Mr. Cline A. Glidden, Jr.
Mr. Lyndon L. Martin

Noes: 5

Mr. D. Kurt Tibbetts
Mr. Alden M. McLaughlin, Jr.
Mr. Anthony S. Eden
Ms. Edna M. Moyle
Mr. V. Arden McLean

Absentees: 3

Hon. Roy Bodden
Mr. Rolston M. Anglin
Capt. A. Eugene Ebanks

The Speaker: The results of the Division are as follows: 9 Ayes, 5 Noes and 3 Absentees. Accordingly, the Ayes have it.

Agreed: Question No. 46 deferred.

Question No. 68

(Carried forward from the Third Meeting of the Legislative Assembly)

The Speaker: Second Elected Member for the district of George Town.

No. 68:Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Planning, Communications and Information Technology if the contract or contracts to design, construct and finance the construction of the proposed new government office buildings will be put out to competitive tender.

The Speaker: The Honourable Minister responsible for Planning, Communications and Information Technology.

Hon. Linford A. Pierson: Yes.

The Speaker: Second Elected Member for George Town, do you have a supplementary? Please proceed.

Supplementaries

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I wonder if the Honourable Minister can say when this process will take place and on what basis will it be conducted.

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

The process of pre-qualification advertisements has already been put in train. As a matter of fact, the advertisements went out on 23rd, 25th and 30th October 2002.

The Speaker: Are there any further Supplementaries? The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Minister state, as in his substantive answer he speaks to two separate portions for the entire package, whether design, construction and financing will be treated separately or together?

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, it might be helpful if I just read the first paragraph of the pre-qualification document that went out, and it will give information on what is expected. Under Project Description it says, "**The Government of the Cayman Islands intends to proceed with the procurement of two new office buildings in George Town totalling approximately 168,000 sq ft. The project is to procure on a finance/designed build lease /purchase basis. The offices will be constructed on land currently owned by Government. The Government of the Cayman Islands is desirous of occupying the new office buildings at earliest possible date**".

So, Madam Speaker, the project is to procure on a finance/design/build/lease/purchase basis. That involves the three aspects that the Honourable Member referred to.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Is the Minister saying that there will be one entity which will be responsible for all three, and if so, would that mean that entities only involved in a portion of it are automatically ineligible to tender?

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, the pre-qualification documents have gone out to individuals who are qualified to provide those three services, that is, design, construct and finance. Of course, you will find that if there are firms or joint ventures they will have to obtain the services of the various individuals qualified to, for instance, do the design, construction and so on. However, the particular joint venture will be responsible for the total job done, involving those three elements.

The Speaker: I will allow one more supplementary after this one.

The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I wonder if the Honourable Minister can say, then whether he is aware that there is any local entity in the Cayman Islands that is capable of providing these three services and thereby meeting the required criteria for eligibility.

The Speaker: Honourable Deputy Leader, part of the question is seeking for an opinion, but if you so wish to express, please proceed.

Hon. Linford A. Pierson: Thank you, Madam Speaker. The short answer is yes, but just to be able to provide the House with more detailed information, I would like to read out the basis of the pre-qualification: "It is to provide a statement of capability for the firm or joint venture firm indicating its ability to complete the project as defined. The statement of capability should provide the relevant background information for each company involved including the following: name, address, communication details for financier, financial institution, providers of architectural, interior design, civil, structural, mechanical, electrical and plumbing services and construction company."

Madam Speaker, it is a very detailed document and it went out to all interested parties; those who expressed an interest in the development. Thus far, we have received in excess of a dozen enquiries.

The Speaker: The Elected Member for the district of East End.

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

The Minister said that the pre-qualification tender has been gone out to all those who have expressed an interest and that he has received some 12.

Can the Minister say whether or not this was also sent to companies who have not expressed an interest?

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, the answer is no.

The Speaker: First Elected Member, did you have a supplementary that you wished to ask? Please proceed.

Mr. D. Kurt Tibbetts: Thank you.

Could the Minister state if the various sections in the Public Works Department are playing any role in the process and, if so, what is that role?

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, the Public Works has been very much involved in this process. As a matter of fact, they have prepared the pre-qualification document and also have been very active in a steering committee for the construction of the new office accommodation building. They have been involved in all facets of this: Mr. Peter Riley from the design and architectural point of view and his staff; Mr. Max Ewing from the building point of view; Mr. Colford Scott, chief engineer; Mr. Mark Scotland from the road engineering point of view. So, they have all been involved in this process.

The Speaker: Madam Clerk, next question.

Question No. 69

(Carried forward from the Third Meeting of the Legislative Assembly)

The Speaker: The Second Elected Member for the district of George Town.

No. 69: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Planning, Communications and Information Technology if foreign companies with no local trade and business license will be permitted to tender for the contract or contracts to design, construct and finance the construction of the proposed new Government office buildings.

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: No.

The Speaker: Are there any Supplementaries? If not, we will move on to the final question.

Question No. 77

(Carried forward from the Third Meeting of the Legislative Assembly)

The Speaker: The Second Elected Member for the district of West Bay.

No. 77:Mr. Rolston M. Anglin asked the Honourable Minister responsible for the Ministry of Health Services, District Administration and Agriculture what amount has been spent on indigent health coverage over the past twelve months.

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: The total cost of services rendered to indigents at the Fees Law charges for the twelve-month period ending June 30, 2002 was \$3,620,221.

Please note that the Fees Law charges increased in January and also in August 2002.

Supplementaries

The Speaker: Are there any Supplementaries?
The lady Member for North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. Would the Honourable Minister say if these costs for indigent health coverage are covered from the fund that the Monetary Authority operates for uninsurables and as the Law stated indigents?

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Madam Speaker, the amount of money from the fund to which the Honourable Member refers, of the \$3.6 million, \$1,255,101 came from that fund.

The Speaker: Lady Member for North Side.

Ms. Edna M. Moyle: Madam Speaker, maybe I am asking the Minister to give an opinion. Rather than doing that, I would ask if he would be prepared to let this House know the reason why all persons who are indigent or uninsurable are not covered from this fund. He said that \$1.255 million and it would cost the Government \$3.620 million. What does the fund contain at the moment?

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Madam Speaker, at this time I could not give an accurate figure as to what the fund might contain. However, so far the experience

has been that the fund only provides about half of the cost of providing care for these individuals.

The Speaker: The lady Member for North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker.

Would the Honourable Minister say, now that the Health Services Authority has been set up, if this fund will be moved to the Health Services Authority and operated by them?

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Madam Speaker, these amounts of money will not go directly to the Health Services Authority, they will go to Government and Government will disburse. Under the present arrangement the Health Services Authority (HSA) bills Government for the services provided, and Government in turn pays them.

As a matter of information for Honourable Members, the current activity of the fund is approximately \$106,000 per month, or \$1,272,000 annually.

The Speaker: The lady Member for North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. One last supplementary.

Would the Honourable Minister say what procedure is followed for persons to be covered under this fund as an indigent and uninsurable?

The Speaker: The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: Madam Speaker, persons who benefit from this fund have to go through a financial assessment which is done at the Hospital. It is my understanding that having this done works quite efficiently. However, they must go through an assessment before they come into this category or they are given free medicals.

The Speaker: Are there any further Supplementaries? If not, that concludes Question Time for this morning.

At this time I propose to take a morning break.

Proceedings suspended at 11.47 am

Proceedings resumed at 2.54 pm

The Speaker: Please be seated.

GOVERNMENT BUSINESS

BILLS

**The withdrawal of Bill
Standing Order 58**

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, during the break the Business Committee met to deal specifically with the revised Public Management and Finance Bill so that the Financial Secretary can proceed with the business this afternoon. That Bill has been replaced by the new Bill circulated, and we would ask for the suspension of the relevant Standing Order.

The Speaker: Thank you, Honourable Leader.
Madam Clerk.

Withdrawal of the Public Management and Finance (Amendment) Bill 2002 Gazetted as Supplement No. 2 with Gazette No. 14 Dated the 15 July 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to move that Standing Orders 45 and 46(1) and (2) be suspended to allow for the First Reading of the Public Finance and Management (Amendment) Bill.

The Speaker: Honourable Member, perhaps you may want to commence with the suspension of Standing Order 58 for the withdrawal of the existing.

Hon. George A. McCarthy: Thank you, Madam Speaker.

I so move that Standing Order 58 be waived to allow for the withdrawal of the original Public Management and Finance Bill.

The Speaker: The question is that in accordance with Standing Order 58 the Public Management and Finance (Amendment) Bill 2002, gazetted as Supplement No. 2 with Gazette No. 14, dated 15 July 2002, be withdrawn.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Public Management and Finance (Amendment) Bill 2002 Gazetted as Supplement No. 2 with Gazette No. 14 Dated the 15 July 2002 withdrawn.

The Speaker: The Honourable Third Official Member.

Suspension of Standing Orders 45 and 46(1) and (2)

Hon. George A. McCarthy: Madam Speaker, I move the suspension of Standing Orders 45 and 46(1) and (2) to allow for the Public Management and Finance Bill 2002 to be given its First Reading.

The Speaker: The question is that Standing Order 45...

Mr. Alden M. McLaughlin, Jr.: Madam Speaker...

The Speaker: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I rise on behalf of the Members of the Opposition to voice our grave concern and objection to the manner in which this matter is proceeding and is proposed to proceed.

The Public Management and Finance Bill 2001 was passed by this Legislative Assembly on the 26 September 2001. On the 15 July 2002, presumably in response to a Parliamentary Question by the First Elected Member for George Town, he inquired what had become of the Public Management and Finance Bill 2001. Why had it not been accented to by His Excellency the Governor? We were circulated with a Public Management and Finance (Amendment) Bill 2002.

The Speaker: Honourable Member, before you proceed, out of an abundance of clarity, are you objecting on a procedural point of the First Reading of the Bill now before us?

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I am objecting to the suspension of the relevant Standing Order.

The Speaker: Thank you. Well, in that case, because he has moved it, please proceed.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

The amendment was circulated on the 15 July 2002. The matter did not proceed at that meeting of the Honourable House and some discussion ensued in the Committee Room regarding concerns, which Honourable Members of this House had about those proposed amendments. More fundamentally, the Bill had not been accented to by His Excellency the Governor, and up until this point, as far as we are aware the Bill is still not Law. So there are a number of fundamental issues outstanding, hence our objection to what is being proposed today.

Not only is there a constitutional objection, we say, this Honourable House has no jurisdiction to amend at this stage a Bill which has gone through all of the stages of this Honourable House and has been passed.

Once it is passed, the Bill is placed in the custody of the Clerk for onward transmission to His Excellency the Governor, and His Excellency the Governor can accent or not accent to the Bill or send the Bill back to this Honourable House, saying why he has not accented to it and proposing amendments if he so wishes.

Now, Madam Speaker, what we have before us appears to be a situation where there is still a Bill extant, which has not received the accent of His Excellency the Governor some 14 months, hence its passage by this Honourable House and a number of significant proposed amendments to that Bill. Now, that is a constitutional point in brief.

In addition to that, Madam Speaker, only this morning we were presented with a new proposed amendment Bill, and we have just heard the Honourable Third Official Member move and succeed in having withdrawn the earlier amending Bill. Just a short moment ago, we were circulated with yet another proposed amendment to that new set of amendments.

Madam Speaker, it makes a mockery of the parliamentary process for us to be subjected to this sort of method. This Bill was passed 14 months ago, and today, on the eve of the Budget Address, we are in a situation where we are being forced to deal with a Bill that we have only just seen.

What is going on? Why has this Bill languished on somebody's desk up at the Glass House for 14 months and now, on the eve of the Budget Meeting of this Honourable House, we—who are also, for those who may think otherwise, Elected Members of the Legislative Assembly of the Cayman Islands—are being forced to deal with something that we have only just seen?

This, Madam Speaker, quite frankly is not on. Is Cayman a Parliamentary democracy still, or is it something else? Do we not have a role to play in this process? How can we contribute effectively to the debate on this critically important piece of legislation if we have not had an opportunity to deal with it? In addition to that, we still have not seen the Law. If the Law has been accented to, where is the document?

For me to get some understanding of what amendments were proposed, I had to ask for a copy of the Daily Journal, which showed what amendments had been made to the original Bill in September 2001, because there is no consolidated document which holds all of those changes.

There are sections referred to in the proposed amending Bill which are not contained in the substantive Bill which was passed in September 2001. It refers to section 42(4)(b) which is not in the substantive Law; that is just but one example.

This is no way to conduct the business of this country. The Public Management and Finance Bill is one of the most important and most sweeping pieces of legislation that has ever been passed by this Legislative Assembly. It is supposed to transform the way the whole management of government's finances are dealt with. The Members of the Legislative Assembly should not be in a position where they are forced to make decisions or forced to vote on proposed amendments in this type of circumstance.

I hope, Madam Speaker, someone will explain in some detail how we get over the constitutional hurdles that are involved in this. I have deliberately not

sought to use the Honourable House's time to go into the specific sections. However, I hope that whoever is charged with this responsibility will explain how it is that this Legislative Assembly, having passed a Bill (and thereby having been rendered *functus officio* as far as that Bill is concerned) is still in a position to move and pass further amendments when the Bill is supposed to be in the hands of His Excellency the Governor. If that is what is to happen, and if that is what is intended, I want someone to explain what appears to me to be the usurpation of this Legislative Assembly of the executive powers vested in His Excellency under the relevant section of the Constitution.

And so, Madam Speaker, for that and all of the other reasons, we are not prepared to vote in favour of the suspension of this relevant Standing Order to enable this matter to proceed today.

I can say to the Members of the other side that we do not wish to be unreasonable. If someone will explain to us what the situation is; if they will defer dealing with this until Wednesday, when we have had an opportunity to look at it, we will be quite prepared to deal with it then. No one is asking for a great deal of time; but it is unfair in the extreme not just to us but to the persons whom we represent and to this country as a whole and to this Honourable House for us to proceed in the current circumstances.

I thank you, Madam Speaker.

The Speaker: Would the Honourable Second Official Member, or the Honourable Third Official Member wish to respond?

Hon. David F. Ballantyne: Thank you, Madam Speaker.

I could take the opportunity to debate the question as to whether this House can consider a Bill to amend a Law as opposed to a Bill to amend a Bill, but I do not think I want to waste the time of the House on that issue. The Public Management and Finance Law has received the Governor's accent, and it received that accent today. So the House is being informed of the position, which I believe, Honourable Speaker, you invited me to do.

As far as any other matter is concerned, there have been difficulties with the original Law which have been the subject of lengthy discussion and consideration. It is thought that the measures now being brought before the House are sufficient and appropriate to address those issues. I will leave the substance of those comments to the Third Official Member who has responsibility for the carriage of the amending Bill.

Unless I can be of further assistance, Madam Speaker, I think that is the extent of my contribution at this stage.

The Speaker: Just, perhaps on a point of clarity . . . you may have said it, but I am having difficulty receiving the sound here. Will someone be addressing the allegation made by the Second Elected Member for

George Town of the usurpation of the legislative powers once the Bill has been passed? Did you address that?

Hon. David F. Ballantyne: Thank you, Madam Speaker. I will attempt to do that.

Once a Bill has been passed, it is sent to my office for the attachment of a legal report. This is more by convention than by anything else although, as the principal legal advisor to Government, I have a responsibility to give legal advice to the Governor as well as to the Government.

One of the provisions in the legal report is to the effect that the Governor's accent may properly be given based on an analysis of the Law. I regret to say that because of certain aspects of the Law as passed, it was impossible to give that opinion without qualifying it in a certain way. That position obtained for some time—and on more than one occasion I was minded simply to deal with the matter because I do not believe that the Attorney General should hold up a Law of this House or of any other House. If it had gone to the Governor in the form in which it was, it would have occasioned a dilemma for the Governor whereby he would have had to elect to decide whether or not to accede to the Law or indeed to send it back. It was the Governor's wish that the matter be the subject of discussion between Members of Government, my Portfolio and the Finance Portfolio, with a view to resolving the issue if at all possible in the most appropriate and sensible way.

Now, it is undeniable that that has taken time. However, I think that once the detail of the amendments are considered it will be undeniable that the Law is a better Law for that deliberation, albeit that it has been somewhat delayed.

I invite Members to consider whether that delay has operated in any practical way by way of disadvantage. It is not my job to say that, nor to comment on it; however, the majority of the Law does not come into operation, as we all know, until 2004, although there are certain propriety steps that have to be taken. It is obviously desirable that the Law should come into operation as soon after it has been passed by this House as possible.

There may be room for a difference in view as to whether the Law is or is not consistent with the Constitution. Unfortunately or otherwise, I have the responsibility for indicating to the Governor that a Law is in an appropriate form for his accent. Because of certain issues with the Law, which this House is fully aware of—I tabled the paper giving the full details earlier this year—I was unable to give that accent of the two courses of action to submit it with qualification to the Governor. In an attempt to more positively address the concerns, it was felt—and I believe that it was a consensus to this effect—that it was better to try to address the concerns and then bring the issues back to this House, without which the whole matter cannot proceed.

As to the current issues, I do not wish to summarise what the Third Official Member may say, but I believe some 5 out of the 9 points in the Amending Bill I understand were present in the previous Amending Bill. This is not an entirely new Bill, albeit there are some new measures in it. However, I think when the measures are discussed and explained, which is what I understand the Second Elected Member for George Town wishes to have, it will become clear that in fact there is sense to this. It will not only be consistent with the Constitution but consistent with the ability of a government to govern.

There are certain issues arising from the Bill and from the original Law which, arguably, might have fettered the ability of a government in power to carry out its lawful functions. So it goes wider than simply an issue of certain parties allegedly usurping powers belonging to other elements of the Constitution. At the end of the day, the Constitution is the document which must be upheld whether any of us likes it or not. To the extent that the Law was not in conformity with the Constitution, it would be null and void; it would be of no effect.

For my part I regret the delay, but I do not regret the measures to have the Law conform with the Constitution. In practice, I believe from my perspective—whether others will agree is a matter for them—that it will be a better Law at the end of the day.

I do not think that there is evidence of undue harm because of the admitted delay, but various parties require to be consulted, including the constitutional advisor, the Chief Justice and others interested in the outcome of this legislation. As well, I think that it will be for the House and the public to judge in due course as to whether the Government and this House have got it right.

It is a major piece of legislation and it is very significant. The only effort that has been made is to make sure that it is compatible with the existing Constitutional provisions, and I am confident that will now be achieved. To the extent that it was not would have occasioned ambiguity at the very least, and real practical difficulty not just for this Government but for any future Government in the management of public finance and public resources.

I think that there is a strong sense among the Government and among those advising the Government, including the consultant to the Government, that we have, in fact, achieved greater clarity at the end of the day. I will allow not my words to speak for that but the amending legislation, and I will defer further comment unless there is anything in addition which I can assist in the deliberations of the House.

The Speaker: Thank you.

Honourable Third Official Member, do you wish to add?

Hon. David F. Ballantyne: May I just add, in my opinion no one has usurped any function of the House in this process. Certainly, while there has been a diffi-

culty, it has been sought to be addressed in a way consistent with the authority of this House and not otherwise. Thank you.

The Speaker: Thank you.
The Honourable Third Official Member.

Hon. George A. McCarthy: No, Madam Speaker. I think the Honourable Second Official Member has dealt with the queries raised by the Honourable Second Elected Member for George Town through you.

The Speaker: The question is... Yes, Second Elected Member for George Town?

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I wish to move a motion that debate on the Public Management and Finance (Amendment) Bill, 2002 be deferred until Wednesday morning at 10 am.

The Speaker: There is a motion already on the Floor that was moved by the Honourable Third Official Member, and we will have to deal with that motion first.

The question is that Standing Orders 45, 46(1) and (2) be suspended. All those in favour please say Aye. Those against, No.

Ayes and Noes.

The Speaker: I believe the Ayes have it.

Mr. D. Kurt Tibbetts: Madam Speaker, can we have a Division, please?

The Speaker: Certainly.
Madam Clerk, please call the Division.

Division No. 8/02

Ayes: 10

Hon. W. McKeever Bush
Hon. Linford A. Pierson
Hon. Gilbert A. Mclean
Dr. the Hon. Frank S. McField
Hon. James M. Ryan
Hon. David F. Ballantyne
Hon. George A. McCarthy
Mr. Rolston M. Anglin
Capt. A. Eugene Ebanks
Mr. Cline A. Glidden, Jr.

Noes: 5

Mr. D. Kurt Tibbetts
Mr. Alden M. McLaughlin
Mr. Anthony S. Eden
Ms. Edna M. Moyle
Mr. V. Arden McLean

Absent: 2

Hon. Roy Bodden
Mr. Lyndon L. Martin

The Speaker: The results of the Division are as follows: 10 Ayes, 5 Noes, and 2 Absent. The Ayes have it.

Agreed by Majority: Standing Orders 45 and 46(1) and (2) suspended.

The Speaker: The Second Elected Member for George Town, I believe you had an intention to move a Motion.

Motion to Defer the Public Management and Finance (Amendment) Bill 2002
Motion Without Notice (Standing Order 24(9) (h))

Mr. Alden M. McLaughlin, Jr.: Yes, Madam Speaker. Pursuant to Standing Order 24 (9)(h), I hereby move that debate on the Public Management and Finance (Amendment) Bill 2002 be deferred until 10 am on Wednesday to permit the Members of the Opposition the opportunity to consider the proposed amendments which have just been circulated to them.

The Speaker: Is there a Seconder?

Mr. V. Arden McLean: Madam Speaker, I beg to second the Motion.

The Speaker: I would prefer to take a short suspension to allow the Motion that you just said to be put in writing so I can fully consider it within the context of Standing Order 24(9)(h) before I put the question.
If we could take a 3- to 5-minute suspension, please.

Proceedings suspended at 3.22 pm

Proceedings resumed at 4.12 pm

The Speaker: Please be seated.
For the record, I will call on the Second Elected Member for the district of George Town to read into the record the substance of the Motion.

Motion to Defer the Public Management and Finance (Amendment) Bill 2002

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

“Motion to Defer the Public Management and Finance (Amendment) Bill 2002”, says that, in accordance with the provisions of the Legislative Assembly Standing Order 24(9)(h) I, Alden M. McLaughlin, Second Elected Member for George Town, hereby move that the debate on the Public Management and Finance (Amendment) Bill 2002 be deferred until 10 am on Wednesday, 6 November 2002, to enable Members of the Parliamentary Opposition to consider the proposed amendments to The Public Management and Finance Law which was only circulated to Members of the Legislative Assembly during the course of today’s proceedings of the Legislative Assembly.

The Speaker: I will again call on the Member for East End to second it, as the written form varies slightly from the verbal form.

The Member for East End.

Mr. V. Arden McLean: Madam Speaker, I beg to second the Motion moved by the Second Elected Member for George Town.

The Speaker: The Motion has been duly moved. Does the Second Elected Member for George Town wish to speak further to?

Mr. Alden M. McLaughlin, Jr.: No, Madam Speaker. I think anything I add at this stage would be redundant. I think I made the case earlier for the reasons why we ask for this deferral, and anything I say would simply be repetition.

The Speaker: Does any other Member wish to speak?

The Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, we too do not appreciate the fact that the amending Bill has taken so long to get here. Even at the point when it was debated in 2001, records of this House will show that Members were still asking questions on the Bill.

During the course of this year, I arranged a meeting with the Opposition in attendance, and there was agreement in the way forward with the Bill on certain amendments.

No doubt about it, the Bill is an important one. We certainly want to ensure that what happens at this time will not cause any further doubt in Members' minds as happened when the Bill was passed last year. As a Government we will agree to postpone it until Wednesday, but we will do it only after the Honourable Financial Secretary has introduced the Bill so that we can be in a more informed position.

The Speaker: The question is that the debate with respect to the Public Management and Finance (Amendment) Bill 2002 be deferred.

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

Ayes and one audible No.

The Speaker: I believe the Ayes have it.

Agreed: That Debate on the Public Management and Finance (Amendment) Bill 2002 be deferred until Wednesday 6 November 2002.

GOVERNMENT BUSINESS

BILLS

Suspension of Standing Order 45 and 46(1) and (2)

Hon. George A. McCarthy: Madam Speaker, I beg to move the suspension of Standing Orders 45 and 46(1)

and (2) so that the First Reading of the Public Management and Finance Bill may take place.

The Speaker: The question is that Standing Orders 45 and 46(1) and (2) be suspended.

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

Ayes.

The Speaker: The Ayes have it.

The Honourable Third Official Member.

[Second Elected Member from George Town rose]

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I am not seeking to be difficult at all, and I am entirely in agreement with what the Honourable Leader has proposed in terms of the way forward. However, the House has just voted in favour of a Motion to defer debate, so what really needs to happen is for a motion in an amended form to include what the Honourable Leader was seeking to do. We cannot amend this one now because it is already passed.

The Speaker: Precisely.

Honourable Members, I think the intent of the House was. . .

Hon. W. McKeeva Bush: Madam Speaker, certainly, when I proposed that that we agree but we move forward and allow the Honourable Financial Secretary to introduce the Bill so that we could be more informed, I think that was the understanding of the House and the debate will then begin on Wednesday. So I think we are on all fours in allowing the Financial Secretary to move forward.

The Speaker: Honourable Members, as I see it, the technical difficulties that we have is that the question was put in accordance to the Motion, a vote was taken and concluded. The only other provision that, perhaps, Members may want to seek the advice of the Honourable Second Official Member on would be Standing Order 44(5), where if a vote was made in error perhaps we could proceed on that basis.

Hon. David F. Ballantyne: Madam Speaker, on a point of elaboration. I believe that when the House voted on the Motion, it may have thought that it was taking into account the comments of the Leader of Government Business, and to that extent the Motion might have been considered amended. If that was the view that the House takes as a whole, then it could proceed. If it does not take that view, then the vote might be considered as having been taken in error. I think it was taken in haste, and in the circumstances, it is a matter for the House as to what interpretation it puts on what occurred.

However, I think the House was in agreement that the debate on the Bill be deferred until Wednes-

day, other than the introduction of it by means of First Reading. That is my understanding of what occurred. If that were to be the interpretation of the House, and I do not propose to speak for it, then it would mean that the First Reading could proceed, if you, Madam Speaker, agree.

[Inaudible comments from Members of the House]

Hon. David F. Ballantyne: Correction, Second Reading. I do not mind being corrected.

The Speaker: Thank you, Second Official Member.

Hon. David F. Ballantyne: Any time, Madam Speaker.

The Speaker: All right. It appears that the intent of the House was to have the Honourable Third Official Member debate this afternoon, irrespective of the fact that that was not procedurally followed. Out of an abundance of clarity, is it the intention of the House to have the Third Official Member debate at this time?

[One audible response]

Mr. Rolston M. Anglin: Yes, Madam Speaker.

The Speaker: The Third Official Member.

FIRST READING

The Public Management and Finance (Amendment) Bill 2002

Hon. George A. McCarthy: Madam Speaker, since a Motion has already been voted upon in relation to the First Reading, I wonder if it would not be appropriate at this time to move Standing Order 46(4) to allow for the Second Reading of the Bill to commence.

The Speaker: Please proceed with the Second Reading.

Hon. George A. McCarthy: Thank you, Madam Speaker. I will move ahead with the Second Reading.

The *Memorandum of Objects and Reasons* of the Bill states as follows: "This Bill amends the Public Management and Finance Law 2001".

The Speaker: Honourable Third Official Member, obviously, it is late in the afternoon and everyone needs a bit of breathing space. Suffice it to say it is necessary to do as you initially started to do and that is to suspend Standing Order 46(4). Would you please do that at this time so that we can eventually get this Bill on its right foot?

Suspension of Standing Order 46(4)

Hon. George A. McCarthy: Madam Speaker, I beg to move Standing Order 46(4) to allow the Second Reading of this Bill.

The Speaker: The question is that Standing Order 46(4) be hereby suspended.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46(4) suspended.

SECOND READING

The Public Management and Finance (Amendment) Bill 2002

Hon. George A. McCarthy: Madam Speaker, I always find that any time there is an issue of substance on hand, the greater the challenge. I take it that we are on the right track with what is taking place.

This Bill, as I mentioned earlier, amends the Public Management and Finance Law 2001.

Clause 1 provides the short title.

Clauses 2 and 7 provide the Auditor General with increased investigatory powers for the purpose of enabling him upon the commencement of the legislation to more effectively undertake his duties. Clause 2 also enables the commencement of certain provisions of the principal Law upon publication instead of the date in the original Law given as the 1 January 2002.

Clause 3 amends the definition of the term 'Chief Officer' in the cases of the Portfolio of Legal Affairs and the Judicial Administration.

Clause 4 makes provision for the permanent appropriation of the salaries, emoluments and allowances of members of the Judiciary and Magistracy.

[Inaudible comment]

Hon. George A. McCarthy: No, Madam Speaker, we are still on the right track.

Clause 5 makes clear the power of Ministers, Official Members and the Governor in Council for the selection of outputs and the powers of Chief Officers for the selection and acquiring of inputs.

Clause 6 requires the relevant Minister, instead of the Chief Secretary, to sign the Ministry performance agreements on behalf of the Governor in Council. It also requires the Governor to sign the performance agreement of the Portfolio of Legal Affairs under certain circumstances.

Clause 8 relates to the constitutional independence of the Attorney General, the President of the Court of Appeal, the Judges of the Court of Appeals, the Chief Justice, the Judges of the Grand Court and Complaint Commissioner. The Clause

specifies that the principal law does not affect the constitutional functions of constitutional independence of those officers, and accordingly, provides for altered performance agreement/arrangements for the Portfolio of Legal Affairs.

Clause 9 deletes from the principal law references to 'Executive Council' substituting instead references to 'Governor in Council'.

Madam Speaker, what I have just outlined from the *Memorandum of Objects and Reasons* will show that there are nine amendments that are proposed. Of the nine amendments there are only three clauses, two of them are new and one, which is Clause 8, has been varied from what is in the original Bill.

What has been done this afternoon, for ease of reference for Honourable Members, is that an interlaying copy of the original Bill (which is now Law) has been circulated and superimposed on top of that are the amendments for clarity. It would be useful if we were to look at these three new clauses to see what they are about. We will start with Clause No. 5.

Madam Speaker, if you and Honourable Members would just look at pages 33 of the interlaying copy we can see what was set out in the Bill originally and it reads as follows: **"39(1). Subject to section 40 no decision or action may be made or taken by or on behalf of a Ministry or Portfolio for the purpose of this Law unless that decision or action has been made, taken or approved by the Chief Officer or the Ministry or Portfolio"**.

It was always intended under this provision that Executive Council would have control or take decisions in relation to outputs whereby Chief Officers who would be contractually called upon to deliver those outputs would have control over the inputs. Therefore, the new provisions, which are now 39(1) and (2), as set out in the Amending Bill that replace the original provision that was there now read as follows: **"39(1). It is the responsibility of a Minister or Official Member to recommend to the Governor in Council the outputs to be purchased from their Ministries or Portfolios and it is the responsibility of the Governor in Council to determine the outputs to be purchased from a Ministry or Portfolio and no outputs may be produced by a Ministry or Portfolio unless the production of those outputs has been agreed by the Governor in Council in the relevant performance agreement."**

"(1) (a). It is the responsibility of the Chief Officer to determine and acquire the inputs required to produce the outputs specified in its finalised performance agreement and subject to section 40 no decision or action in relation to inputs shall be made or taken by or on behalf of a Ministry or Portfolio for the purposes of this Law unless that decision or action has made, taken or agreed by the Chief Officer or the Ministry or Portfolio".

Madam Speaker, this makes it quite clear that Executive Council determines the outputs whereby the Chief Officer, who will be charged with delivering

those outputs, will have control over the inputs. So this gives better clarity than the original provision which these amendments now supersede.

Madam Speaker, we now turn to Clause 6 which amends section 42(4)(b). If Honourable Members would turn to page 39...

Hour of Interruption—4.30

The Speaker: Honourable Member, we have now reached the hour of 4.30. I would ask the Honourable Leader of Government to move a motion for the adjournment until the conclusion of your presentation.

Hon. W. McKeeva Bush: Madam Speaker, I move that we allow the Honourable Third Official Member to complete his introduction of the Bill.

The Speaker: The question is that the Honourable Official Member be allowed to continue beyond the hour of 4.30, in order to conclude the contribution on the Second Reading of this Bill.

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

Ayes.

Agreed: Honourable Third Official Member to complete his introduction of the Bill.

The Speaker: Accordingly, the House will continue until the Honourable Third Official Member concludes his presentation on the Second Reading of the Bill.

Honourable Member, please continue.

Hon. George A. McCarthy: Madam Speaker, the amendment under Clause 6 deals with an amendment to section 42(4)(b) and this amendment is consequential upon the amendment of section 39(1). This amendment of section 42(4)(b) gives Executive Council the right to vary the outputs under given circumstances, and it is appropriate that the Law makes provision for this to take place. Although any government of the day will prepare a budget to determine what outputs are appropriate and what inputs should be agreed upon as a part of that budget process, circumstances will always arise where it becomes necessary for Executive Council to have the authority to vary the outputs. However, we saw in 39(1) and (1)(a) the dual process, whereby the outputs are determined by Executive Council and the inputs by the Chief Officer. Therefore, we have the new provision, at page 39, Item 6 that has been added into this Bill. It now reads: **"6(b). A performance agreement may be amended by the Governor in Council during the financial year to which it relates provided that the price to be paid for each input in the amended performance agreement is sufficient to deliver the outputs required by the amended performance agreement"**.

Madam Speaker, what I have just read takes into account the proposed committee stage amendment which deletes "with the agreement of the relevant Chief Officer and Governor in Council". I have given the amendment as it will appear, following the committee stage amendment.

The next amendment is found on page 59 of the interlying copy of the Bill. This deals with the constitutional provision as it relates to the Attorney General. You will see 77(a)(1) which has been underlined ... (2) and 77 (b)...

[Inaudible comments]

Hon. George A. McCarthy: Madam Speaker, I was not aware that the pages had been changed. Thank you.

It is page 57, therefore we are now looking at the provision in 77(a). We are now dealing with the sections, Madam Speaker.

The Speaker: Honourable Member, if you would perhaps refer to the specific sections as opposed to the page, we may get over that problem.

Hon. George A. McCarthy: Alright, Madam Speaker. We are now looking at the new 77 (a)(1) which reads: **"Nothing in this law shall affect the constitutional functions or constitutional independence of the Attorney General; and**

"(ii) The provisions of this law shall apply to the Portfolio of Legal Affairs except that the outputs produced by the Portfolio relating to the function specified in the Constitution shall be specified in the performance agreement for the Portfolio but shall not be subject to agreement with the Governor in Council in accordance with section 42.

(b) (1). Nothing in this law shall affect the constitutional functions or constitutional independence of the President or any Judge of the Court of Appeal or (b) the Chief Justice or any Judge of the Grand Court.

"(2). Nothing in this law shall be construed so as to define the Judiciary as a Ministry or Portfolio or to require the Judiciary to comply with any of the provisions of parts 3, 4 and 5 of the Law.

"(3). The provision of this Law shall apply to the Judicial Administration except that the outputs and the details of the ownership performance specified in the performance agreement of the Judicial Administration shall be specified so as to ensure that they do not impinge on the constitutional provisions or constitutional independence of the Judiciary.

"(c) Nothing in this law shall affect the constitutional functions or constitutional inde-

pendence of the Complaints Commissioner".

Madam Speaker, these are the three (two of them new and one varied) provisions that differ from what was set out in the original Bill. I have already stated in the Memorandum of Objects of the Bill what the amendments that are being proposed intend to achieve.

I think these three provisions that I have just outlined are the only three that Honourable Members will recognise as being new. The others have seen certain technical amendments where reference has been made to 'Executive Council' that has now been replaced by the 'Governor in Council'. Certain provisions have now been made, as I pointed out in the *Memorandum of Objects and Reasons*, to give the Auditor General the ability to obtain co-operation when he is so called upon to perform special audits.

Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Member. May I call on the Leader of Government Business for the adjournment motion?

ADJOURNMENT

Hon. W. McKeever Bush: Madam Speaker, I am more than happy to ask that this House be adjourned until next Wednesday at 10 am.

The Speaker: The question is that the House do now adjourn until Wednesday, 6 November 2002 at 10 am.

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

Ayes.

The Speaker: The Ayes have it.

At 4.47 pm the House stood adjourned until Wednesday, 6 November at 10 am.

OFFICIAL HANSARD REPORT
WEDNESDAY
6 NOVEMBER 2002
10.30 AM
Second Sitting

The Speaker: I will invite the Honourable First Official Member to grace us with Prayers.

PRAYERS

Hon. James M. Ryan: Let us pray:

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

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

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

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

Proceedings resumed at 10:32 am

The Speaker: Please be seated.

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

Apologies

The Speaker: I have received apologies from the Second Elected Member for Cayman Brac and Little Cayman for his absence today.

I should also wish to remind Members that the National Day of Prayers is to be held today at 12.00 pm, so we propose to break at 11.45 am.

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

**National Heroes Day
and
Renaming of Discovery Day to Seafarers Day**

The Speaker: The Leader of Government.

Hon. W. McKeever Bush: Thank you very much, Madam Speaker. As the public is well aware, next year marks a very significant milestone in the history of the Cayman Islands. As we celebrate 500 years of recorded history, the Quincentennial Celebrations will allow us to honour and commemorate Things Caymanian. In keeping with this aim, the Ministry of Tourism has collaborated with the Portfolio of Internal and External Affairs to declare one new holiday starting in 2003 and to rename one existing holiday. With effect from the 27 January 2003 and every fourth Monday in each January thereafter, the Cayman Islands will celebrate National Heroes Day in honour of those persons whose lifetime achievements helped shape the destiny of these our beloved Cayman Islands.

Madam Speaker, National Heroes Day is another way to pay homage to our founding fathers and mothers, and reflects the high regard in which we hold our existing heroes. We believe it is most appropriate that we should take one day a year to reflect on the history of these three Islands and celebrate from whence we have come, how far we have progressed and how much higher we still aspire for each successive generation.

As part of the Quincentennial Celebrations the unveiling and dedication of the Wall of Honour will coincide with the first observance of National Heroes Day. This wall will honour 500 Caymanians who played an important role in the development of the Cayman Islands.

The second holiday of note, which is currently known as Discovery Day, has been renamed Seafarer's Day. This holiday will continue to be observed each third Monday in May. We believe it most appropriate that this holiday be renamed. This change reflects wider the significance of maritime history dating back to Christopher Columbus' historic sighting of the Cayman Islands, through the days when the Cayman Islands were noteworthy ship builders and expert

mariners, through to modern times when areas such as the Shipping Registry continued to play a part in our local economy. Madam Speaker, it will certainly mark a time of appreciation and celebration for our seamen who helped to build the country and first put us on the world map.

I hope that Caymanians, residents and visitors to our Islands will embrace these two holidays, National Heroes Day and Seafarer's Day, beginning in 2003. As well, I hope that throughout time we may use these as a platform to educate our people on their unique heritage and to celebrate all Things Caymanian.

Additionally, I wish to advise Honourable Members that we will adjourn at 4 pm today, in order to have our presentation to all Honourable Members on the new format of the Budget and its presentation here in the Legislative Assembly.

Thank you, Madam Speaker.

QUESTIONS TO HONOURABLE MEMBERS AND MINISTERS OF THE GOVERNMENT

The Speaker: The Second Elected Member for George Town.

Question No. 70

Carried forward from the Third Meeting of the Legislative Assembly

No. 70:Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Planning, Communications and Information Technology if local contractors, who joint venture with foreign companies, will be permitted to tender for the contract or contracts to design, construct and finance the construction of the proposed new Government office buildings.

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Yes.

The Speaker: Are there any Supplementaries?
The Second Elected Member for George Town.

Supplementaries

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I wonder if the Honourable Minister could say whether they have sent out any pre-qualification tenders to local contractors who are joint-venturing with foreign companies in relation to this proposed contract.

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, an advertisement was placed in the papers and interested persons were invited to pick up the pre-qualification requirements for the new government office accommodation project.

I do have a copy of this available and will be pleased to let the Honourable Member have sight of it.

The Speaker: Are there any further Supplementaries?
The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I wonder if the Honourable Minister could confirm, in light of an answer to a previous question on Monday, whether these foreign companies will, as well, be required to hold appropriate Local Companies Control Licences to operate in the Cayman Islands.

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, in connection with the substantive question which asked, "**If local contractors, who joint venture with foreign companies, will be permitted to tender for the contract or contracts to design, construct and finance the construction of the proposed new Government office buildings**", the further answer would be provided they satisfy the requirements of the Trade and Business Licence and The Local Companies Control Law.

The Speaker: If there are no further Supplementaries we will move on to the next question.

Question No. 71

Carried forward from the Third Meeting of the Legislative Assembly

The Speaker: The Second Elected Member for the district of George Town.

No. 71:Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Planning, Communications and Information Technology what criteria will be used to award the contract or contracts to design, construct and finance the construction of the proposed new Government office buildings.

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: The Criteria that is now in place can be generally described as follows:

- (i) Preparation of project specifications: This would involve the client department(s) and the design and project management team from Public Works and other technical expertise as required;
- (ii) Pre-qualification of companies: This would apply to both design and construction.

Consideration would be given to the qualifications and expertise and past experience of the firm and its sub-contractors; their intended approach and methodology to the work, project cost control mechanisms as well as professional indemnity and insurance cover;

(iii) **Tendering Process:** Pre-qualified firms would then be invited to submit tenders. This process follows the provisions of Finance and Stores Regulations. Projects with a value exceeding \$100,000 require that the Central Tenders Committee award the contract.

(iv) Following the award of the contract the project is managed and monitored by PWD.

However, in respect to the proposed new Government office buildings, Government intends to use the Private Finance Initiative (PFI) concept, which basically can be described as a procurement method for a facility, involving the design, build, financing and agreed level of operations (such as facility management and maintenance, security, catering, for example). The facility would therefore be built to the client's (in this case the Government) specifications.

While research is currently being conducted on PFI projects and the criteria for bids is being developed, I can assure Honourable Members that several key elements will be considered and include - (a) level of stimulus to a local company; (b) level of local participation; (c) quality of the proposal; (d) demonstrated level of financing, consulting and contracting capabilities; and (e) value for money.

The Speaker: The Second Elected Member for George Town.

Supplementaries

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I am grateful to the Honourable Minister for this response in which the criterion is set out in a general sort of way. I wonder if the Minister could advise whether or not the specific criterion will be made public in advance of this process.

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, the Project Definition Document (PDD) will give the specific details of what is required with the project and this will be made available to the public.

The Speaker: Are there any further supplementaries?
The Member for East End.

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

In the substantive answer the Minister said that following the award of the contract, the project is managed and monitored by the Public Works Department. Can the Minister say if that is exclusively by

Public Works Department, or will Public Works Department be hiring a project management company to assist them?

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, Public Works is now in the process of hiring a senior project officer who will be responsible for the oversight of the project. However, because this is a Private Financing Initiative (PFI) an oversight will be done by both Public Works and a private sector during the period of the repayment of the project, which is estimated to be anywhere between twenty and thirty years.

The Speaker: If there are no further Supplementaries, we will move on to the next question.

Question No. 72

Carried forward from the Third Meeting of the Legislative Assembly

The Speaker: The Second Elected Member for George Town.

No. 72:Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Planning, Communications and Information Technology if the .ky domain is owned by the Cayman Islands Government and, if so (a) when was it acquired; (b) from whom was it acquired; (c) what was the cost of its acquisition.

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: The strictly correct answer to this question is that the .ky domain is not owned by the Cayman Islands Government, or by anyone else for that matter. It follows that the three contingent questions are inapplicable. However, the following additional information will be of interest to Members.

Ownership

The Internet Corporation for Assigned Names and Numbers (ICANN) and its subsidiary organisation, the Internet Assigned Numbers Authority (IANA), are the two bodies charged by the United States Department of Commerce with overseeing the management of Internet domains.

Policy guidelines for the management of country-code Internet domains such as .ky have been in place since 1994. These state that each domain must have a designated manager and an Administrative and Technical Contact. The Administrative Contact must reside within the country involved. The designated manager is a trustee for the domain, and has a duty to serve the community. Concerns about "rights" and "ownership" of a domain are inappropriate. The internationally accepted policy was recognised in the In-

formation and Communications Technology Law 2002 which states at section 9(3)(i) that the principal functions of the ICT Authority include: "To be the sole person appointed under this Law to be the Administrative Point of Contact and the only person responsible for the management and control of the top level of the global Internet Domain Name System held in trust for the Internet and the Islands". Hence my response that no one *owns* the .ky domain.

Administrative Contact

I will now address the question of who is *administering* the .ky domain. Prior to the enactment of the ICTA Law, the Administrative Contact for the .ky domain was Mr. Clint Mole, an ex-government employee who by then was working for a local company on a work permit. When the new Law came into force in May this year, the Authority proposed to Mr. Mole that they grant him temporary authority to continue his duties so that a smooth hand-over to the ICTA could take place. In practice, Mr. Mole decided that because of his legal liability to third parties, he would simply cease to perform the functions of Administrative Contact. Within 24 hours the ICTA took over the duties and responsibilities of Administrative Contact with very little disruption to the smooth running of the domain. They have continued to do so ever since. Mr. Mole has now returned to the UK with his family, and has no further involvement in the administration of the domain. Indeed, because he is outside this jurisdiction, he is ineligible to do so.

With respect to the Administrative Contact, the appropriate questions and answers therefore are:

(a) **Question:** When did the ICT Authority take over administrative responsibility for the .ky domain?

Answer: May 2002.

(b) **Question:** From whom did it take over administrative responsibility?

Answer: Mr. Clint Mole.

(c) **Question:** What was the cost of this transfer of responsibilities?

Answer: Nothing. No payments of any kind were made by Government or the Authority to Mr. Mole.

Technical Contact

The Technical Contact for the domain is responsible for technical support to the domain, including the provision and maintenance of on-line directories of all names registered within the domain. These directories are part of the world-wide domain name service and they run on computers called domain name servers. These master records are vital to the operation of the domain as they are referenced every time a user

looks for a web page with, or sends an e-mail to, an Internet address ending in .ky.

At the time that the ICTA Law came into force, technical services for the .ky domain were being provided by a company called Message Secure Corporation of Boston, Massachusetts under a contract from IMS Inc. of California. The hardware and software on which these services were running were owned by IMS Inc. and were located at a secure Network Access Point in Boston, with a duplicate system located in a similar facility in Los Angeles, California.

My Ministry had been in discussions with IMS Inc. over a period of approximately 12 months with a view to reaching an agreement that would transfer control of the technical services to the Government. When the ICTA Law was published, IMS Inc. recognised that the series of contracts under which they were providing technical services might not be valid. Accordingly, they initiated action to sue the shareholders of the company, called DNT Inc., who had sold them these alleged "rights". They also offered to sell to Government the hardware and software that was being used to run the domain, plus provide an electronic copy of all relevant registration data.

On 7th June of this year, Government agreed to purchase the hardware and software from IMS Inc. for a total of US\$238,000. This included seven machines located in Boston and Los Angeles, together with the associated communications and network security equipment, and the source code and licences for all software developed or purchased by IMS Inc. In addition, an electronic copy of all registration data was transmitted to Government the same day. The equipment in both locations is now clearly labelled as 'The Property of the Cayman Islands Government'. The Government, with the full support of the Board of the ICT Authority, took this decision in order to protect the integrity of the .ky domain. As a result of the legal proceedings between IMS Inc. and DNT Inc., there was a real risk that DNT Inc. would seek a court ruling that would allow them to seize all IMS's assets, including the domain name servers. This could have led to the shutting down of the .ky domain, a possibility that would have had disastrous consequences for businesses and individuals in the Cayman Islands.

Government has also taken over the contract that previously existed between IMS Inc. and Message Secure Corporation for the provision of technical services. The value of this contract is C\$7,800 per month, and this includes the cost of housing the equipment in the Network Access Points in Boston and Los Angeles, and of providing monitoring and technical support 24 hours a day, seven days a week. At an appropriate time, the title to the hardware and software, and responsibility for the support contract, will be transferred to the ICT Authority. The domain is currently running smoothly.

With respect to the Technical Contact, the appropriate questions and answers therefore are:

(a) **Question:** When did the ICT Authority take over technical responsibility for the .ky domain?

Answer: 7th June 2002.

(b) **Question:** From whom did it take over technical responsibility?

Answer: IMS Inc. of California.

(c) **Question:** What was the cost of this transfer of responsibilities?

Answer: A payment of US\$238,000 to IMS Inc. for the purchase of the hardware and software being used to run the domain, plus CI\$7,800 per month to Message Secure Corporation for the continued provision of technical support services.

Current Status

IANA and ICANN have yet to formally recognise the transfer of responsibilities from Mr. Mole to the ICT Authority. The appropriate application has been submitted and is being considered. In the past, similar decisions have taken months if not years. An additional complication is that the shareholders of DNT Inc. have threatened to obtain an injunction in the United States prohibiting ICANN from approving our application at least until the legal actions between DNT and IMS have been settled. These matters are being monitored by the Legal Department, and I believe it would be inappropriate for me to comment further on them at this time.

Thank you, Madam Speaker.

The Speaker: The Second Elected Member for George Town.

Supplementaries

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I would like to thank the Honourable Minister for that comprehensive response. I wonder if he could say who are the beneficial owners of IMS Inc. and DNT Inc.

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, I regret that I do not have those details available but would be pleased to provide them to the Honourable Member in writing.

The Speaker: Are there any further Supplementaries?
The Member for East End.

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

The Minister said that Mr. Clint Mole was the Administrative Contact for the .ky domain and he is an ex-government employee. Can the Minister tell us if Mr. Mole was an employee at the time he became

Administrative Contact and under what authority did he acquire such status?

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, in regard to the last part of the question, I think the first part of my answer pretty much covers the authority. Authority would not come from the Government, as this is a matter for the Internet Corporation for Assigned Names and Numbers and also the Internet Assigned Numbers Authority. So, this would not have been a matter for the Cayman Islands Government.

As to whether he was an employee during that time, my understanding is that it was shortly after he left government. However, he did, in fact, start making the contacts before leaving the Computer Services Department where he worked.

The Speaker: The Member for East End

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

I thank the Minister, but I do not believe my question was answered. My question was, while he was an employee of government working in the Computer Department, under what authority could he negotiate with someone else to achieve that administrative contract? Would that not be a conflict of interest being an employee of government?

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, I am not sure I can add to my answer because I gave the answer that I have available. He did not have to seek any authority from government on this as the authority is not with government to give. The authority is with the Internet Corporation for Assigned Names and Numbers and Internet Assigned Numbers Authority.

With that side covered, I will deal with the second part. As to whether there was a conflict of interest, I am not in a position to say or to give an opinion on that.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Madam Speaker, I was just trying to ascertain Mr. Mole's capacity in government. Would it not be a conflict of interest? If Government is currently paying, as I understand it from the substantive answer, \$7,800 per month to Message Secure Corporation for the continued provision of technical support services, I just wonder if that is also the type of money Mr. Mole was receiving during his tenure with government. Who authorised him to go out and get into business while being an employee under government?

The Speaker: The Honourable Deputy Leader, it is the opinion of the Chair that is an administrative mat-

ter which falls under the First Official Member. Seeing that it is not a substantive question, you may answer if you wish but it is not mandatory.

Hon. Linford A. Pierson: Madam Speaker, for the benefit of the Honourable Member, I will say for a third time, he did not need to get authority from the Department on this because the Department did not have the authority to give.

I will not entertain further questions in that direction. As I said, these matters are being monitored by the Legal Department and could very well become sub judice. I believe it would be inappropriate for me to comment on these details further than I have done.

Thank you, Madam Speaker.

The Speaker: Honourable Deputy Leader, for the clarity of the Chair, is it a case that there is a case pending that would warrant these matters sub judice?

Hon. Linford A. Pierson: Yes, Madam Speaker.

The Speaker: All right.

The Elected Member for East End.

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

I do not understand the reply from the Minister to your question as to whether there is a case pending. As I understand it from the substantive answer, that is between two foreign companies; that has nothing to do with this country. If I am incorrect could the Minister please correct me?

The Speaker: The Honourable Deputy Leader.

I will allow one more supplementary thereafter.

Hon. Linford A. Pierson: Madam Speaker, I will re-read what I have already read and hopefully it will answer the Honourable Member's question. I will just read a part of the Current Status.

"IANA and ICANN have yet to formally recognise the transfer of responsibilities from Mr. Mole to the ICT Authority. The appropriate application has been submitted and is being considered. In the past, similar decisions have taken months if not years. An additional complication is that the shareholders of DNT Inc have threatened to obtain an injunction in the United States prohibiting ICANN from approving our application at least until the legal actions between DNT and IMS have been settled."

This is the connection that there is an injunction being brought in the United States prohibiting the approval of our applications because of this pending lawsuit. **"These matters are being monitored by the Legal Department, and I believe it would be inappropriate for me to comment further on them at this time."**

The Speaker: The Fourth Elected Member for West Bay.

Mr. Cline A. Glidden, Jr.: Thank you, Madam Speaker.

Can the Minister state whether there is any financial benefit gained by having the authority or being the administrative contact? The reason for that question is because it is quite expensive to be in that position. While we can see it is beneficial for the government to buy the rights and pay the maintenance, I wonder, if there is no direct financial benefit, why the previous administrator would have found it prudent to spend that similar money in maintenance and ownership.

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Madam Speaker, I am not sure that I am able to add to the answer that I have given already on this as to whether there are any financial benefits to be gained. We do know that Mr. Mole got involved in this, we saw some transfer of funds and the Government had to pay some \$238,000, so there was some value placed on this. However, as I said, I am not in a position, or do I wish to comment further on this issue at this point in time in view of the delicate situation that we are at now with the negotiations.

The Speaker: That concludes Question Time.

GOVERNMENT BUSINESS

BILLS

SECOND READING

The Public Management and Finance (Amendment) Bill, 2002

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak?

The First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker.

If possible, I would gladly give way this morning for my turn to request the Honourable Third Official Member to speak again to the amending Bill. When I look at the transcript of what he said when he was proposing the amending Bill, I certainly was not able to glean much more regarding the rationale behind the amendments than what I read in the Bill itself. Perhaps, unfortunately, we are left to wonder about the reasoning behind the amendments and that, in itself, naturally may cause some confusion when trying to decide whether the proposed amendments are worthy of support or not.

Madam Speaker, I think that the fact that the original Bill was passed in September of 2001, but languished for nearly 14 months before we discovered it has now been accented to—in fact, I understand it was accented to on Monday—has left a fairly long gap between then and the amendment. Another fact is that the original amending Bill, which was published as supplement No. 2 and Gazette No. 14, dated the 15 July of this year, was not actually brought to the House, although the green Bill was produced. The new Bill we received on Monday, which includes the original amendments as well as others, takes into account that original green Bill. Equally unfortunate, we have not heard any reasoning behind the three new amendments, outside of the reading of the *Memorandum of Objects and Reasons* which we already have.

I do not think the purpose of bringing a Bill, or any type of proposed legislation, is so the law will be crafted necessarily to have the full details of explanation. You usually have marginal notes which signify the purpose of the various sections; what it wants to achieve. It is always in good stead for the legislators, who listen to the Bill and to who is offering it, to be able to glean the reasoning behind the various amendments such as the ones being proposed. With that in mind, and being disadvantaged in terms of debating whether to support it or not, we then have to re-examine the substantive legislation that was proposed and try to intersperse the amendments with those original sections and make our own conclusions as to the rational.

Madam Speaker, in order to deal with the amendments, I think it is worthy to take a few minutes to refresh our memories as to the purpose of the original legislation. This would enable us to understand the relationship between the objective of the original legislation and what the effects will be of the proposed amendments with regards to that objective within the legislation.

The Public Management and Finance Bill 2001 was conceived, developed and brought to the Legislative Assembly after some four years of thought, consultation, disagreements and, perhaps, many long sleepless nights for some. Although the previous Public Finance and Audit Law existed, it was recognised that there was great inefficiency and lack of accountability in the manner in which the public sector operated its fiscal regime. To summarise in one sentence, it is my opinion that the entire culture was wrong.

As I mentioned before, this Bill was passed in September 2001, and indeed, I still hold firm to the belief that this was a milestone achieved. It was a time when many of us were grasping for a vision to see the way forward for these Islands. Finally this Public Management and Finance Law 2001 replaces the old Law, with its main goal being to modernise the Financial Management System of the Cayman Islands Government. I am convinced it will create the environment for greatly improved performance in the public sector, resulting in a more efficient and effective regime.

The new Financial Management System, which the legislation calls for, creates a new culture, a different strategy, a more defined focus on the services which are delivered by the Government. These services I refer to are the outputs, and efforts will now be concentrated on outputs rather than inputs.

The guts of the legislation provide also for better financial information which, in my view, is perhaps one of the most important ingredients for sound decision-making, especially at the policy level. However, in my opinion, topping the list of improvements the legislation will bring about is accountability—accountability from top down and bottom up, to the point where no one escapes the meaning of the word or the actions called upon. Attached to this, in order for it to work, will be the introduction of the accrual accounting system replacing the existing cash accounting system which the Government now uses.

So in looking at the main legislation, we want to try to see the picture as to what will be achieved by it. In looking at that picture, we look to the amendments to see whether or not the amendments will enhance what the objectives of the legislation were. Obviously, I would suspect that these amendments brought forward by the Government, through the Third Official Member, will enhance the objectives of the main piece of legislation.

One example of the important provisions of the legislation is that decisions over inputs and banking matters will be delegated to chief officers, being permanent secretaries and their equivalents. Of course, for this to happen, ministries and portfolios will need to develop the management systems and the capabilities which will be necessary for them to function effectively under the new system. Madam Speaker, there are some amendments which have to be examined when we look at that being one of the purposes of the legislation.

The Law also clearly outlines the financial management functions that will rest with us, the legislators. These functions will reflect the constitutional role of the Legislative Assembly in authorising revenues and expenditures of government and to, in turn, hold the government accountable for their actions.

The Law also reflects EXCO's responsibility to set the outcome priorities of the Government, making sure that the actions of the Government are consistent with the outcomes and managing the financial performance of the entire public sector. That is very important when we look at the big picture and we begin to examine those amendments in short order to see how they correlate.

We speak to legislation reflecting EXCO's responsibility to set Government's outcome priorities, ensuring that Government's actions are consistent with these outcomes and manage the financial performance of the entire public sector. At the same time, we are subsequently speaking to immediately preventing funds being shifted from where they were allocated and approved for, to areas where, although

they may have tangible results, they are merely what I call "election propaganda".

Some time ago I remember we had some \$8 million shifted to road works just before an election, and the following year we had to end up finding the \$8 million to complete the rest of the work.

When we speak to Executive Council's responsibility, via this new piece of legislation, we will not see anyone get up and say, *'It is not my budget, it is the Financial Secretary's budget'*. Those are the kinds of things that some of us are used to. Those of us who have been here long enough, I am sure if we think for a little while we will have a wide smile on our faces.

Madam Speaker, the Law also establishes the new structure and timing of the annual budget process. It is a whole new way of doing business. The budget process will now have five phases to it: a strategic phase; a detailed planning and budgeting phase; an Executive Council collective-review phase; a Legislative Assembly review phase; and a documentation phase. This allows Government, via policy decisions, to be able to set their priorities right and have a clear indication of what revenue streams will truly be like, which is what so many of us have craved for so long. As well, this also allows for levels of services or outputs that can be provided, and for structure of the system in a fashion that will be accountable at all levels, whereby outputs are achieved and the cost of inputs to achieve those outputs are regularised and monitored in such a manner that the Government can be accountable. The Government can say, *'These are the outputs that have been achieved and here is what it cost to do so'*.

I know that some present Ministers find themselves in extremely difficult circumstances when making decisions because of systems that have thrived and accumulating deficits harboured, which will not disappear overnight. Nevertheless, we have to begin somewhere if we are going to see any positive results. So I believe that the Bill, which is now Law, is certainly the way forward.

When the Bill was brought initially, I do not believe anyone held the view that it would be perfect from the onset. The concept is fairly new and the whole culture that had to be changed is an ongoing exercise. From then it was fair to assume that, from time to time, as you begin to work and practice the system you have to tweak it. The way to do that with legislation is to amend. The principle of amending the legislation we hold no argument with, and I think it is safe to say that this is not the end of the amendments. As we explore further the workings and we see how we can improve, it is good common sense and only natural for us to want to make those improvements. In so doing, we will have to amend legislation. Therefore, we are on all fours from the principle's point of view.

Madam Speaker, when we look at the proposed amending legislation, the Law which we now have goes on in its objectives. In relation to govern-

ment departments and agencies, this Law will require Executive Council to agree with the agency concerned on the performance and outcomes expected and the outputs achieved from existing inputs. The clauses in that section specify the form of the performance agreement which is, again, brand new to all of us. We must appreciate that is something that will take some time for all to embrace. However, I am sure that as time goes on, their value will be seen.

The Law specifies the duties and powers of the Financial Secretary in the new Financial Management System; it outlines the roles and responsibilities of ministries and portfolios in the new Financial Management System. It defines the duties of the ministry or portfolio and its chief officer, and it provides the chief officer of a ministry or a portfolio with the necessary powers to carry out its responsibilities. It is important to understand those powers. Those are the powers to earn revenue by selling outputs and to incur entity expenses relating to inputs. When we refer to inputs, it can be any department and perhaps that is why the word was chosen; there are so many areas that you speak to. Some are tangible, some you can hold in your hand, some will be on paper and some will be results that are written. It just depends. It also provides the power to buy and sell entity assets provided that any new assets are used to produce existing outputs and to determine the management and production systems of that ministry or portfolio.

The Law requires the ministry or portfolio to prepare performance agreements each year. The Law specifies the process, the timetable to be followed and the content of the agreement. Therefore there is no willy-nilly, no pipe drain, it is streamlined, systematic, ready to work, well oiled, just for the human resources required for it to function. However, throughout all of these things within this Law, as systematic as it is intended to be, there is a chain of command which is clearly defined from the top down. If you are short you can look from the bottom up and see the same thing. That is the importance of the working of the system.

You do not get either halfway down or halfway up, a third of the way either way, and then have to stop because you do not understand where to go. Hands are reaching. One touches mine, mine touches the next and it goes right up to where the buck stops. That is what it is all about.

Prior to this we did not have that clearly defined, and people would choose at any given moment their own way to get to the end result depending on what the agenda was. Now we should be in a position to prevent that.

The Law contains specific provisions. Some of the amendments put forward, in my view, clarify and enhance the original provisions which relate to the independence of the Auditor General, specify the duties of the Auditor General and provide the Auditor General with the necessary powers to undertake his duties. Even with all of that, the Law specifies the accountability arrangements for the audit office. They

make the audit office accountable to this Legislative Assembly rather than to Executive Council. Of course, this Legislative Assembly includes Executive Council.

Additionally, the Law protects the independence of the Governor and it ensures that he is not subject to the budgetary and accountability provisions of the legislation. It also provides an exemption from the reporting requirements of the legislation for the office of the Governor, and it requires that the information is included in the budgets and reports of the Portfolio of Internal and External instead. It does not say that it should not be reported. You see, Madam Speaker, it takes into account the small size of the office of the Governor, so it simply means that reporting is entered under the Portfolio of Internal and External Affairs.

The Law as I have just outlined, in my view, will most certainly cause greater efficiency and greater performance from both human and capital resources utilised within the public sector. The accountability required from all of the players in the game is certainly most welcome; none of us are excluded from that process. We too here in the Legislative Assembly are charged with our own responsibilities.

Perhaps it is time to look at the amendments. Here is where we find ourselves making sure we temper any imaginative thoughts we may have, not having had the privilege of an explanation as to why these amendments are being proposed. After trying to gain the big picture with the legislation, we now look to the individual amendments and try to sift through the reasoning to justify these amendments being brought.

In the *Memorandum and Objects of Reasons* for the proposed amending legislation, as was, basically, read out verbatim yesterday by the Honourable Third Official Member, it says, “**Clauses 2 and 7 provide the Auditor General with increased investigatory powers for the purpose of enabling him upon the commencement of the legislation to more effectively undertake his duties. Clause 2 also enables the commencement of certain provisions of the principal Law upon its publication instead of 1 January 2002**”.

Clause 7 relates to section 63 of the principal Law, and the proposed amendments are related in the way I will try to explain here.

“63. (1) For the purposes of carrying out an audit or an investigation other than under section 59(e), the Auditor-General or any person authorised by him for that purpose has –

- (a) (i) **the right of access to all relevant information held by the Governor in Council, or any member of the Executive Council where the relevance of information shall be determined by the Governor;**
- (ii) **the right of access to all information held by any public officer or employee of a statutory authority or government company;**

- (b) **the right to take copies of any information referred to in paragraph (a);**
- (c) **the right to require explanations from officers or employees of entities subject to audit or investigation;** [Madam Speaker, bear in mind that does not necessarily include only the public sector]
- (d) **the right of access to all premises occupied by any ministry, portfolio, statutory authority of government company.**

“(2) The Auditor General may direct in writing a public officer or an employee of a statutory authority or government company subject to audit or to an investigation other than under section 59(e), to-

- (a) **provide information to the Auditor-General within the time and in the manner specified in the direction;**
- (b) **attend before the Auditor-General at a specified time and place and answer questions; and**
- (e) **grant access to the Auditor-General or to any person authorised by the Auditor-General, to any premises occupied by the entity.**

(3) For the purposes of carrying out any investigation under section 59(e), the Auditor-General shall in relation to the investigation have the powers provided by subsections (1) and (2) and those powers shall also apply to all relevant persons, companies and bodies.”

This is very important. Left there we, perhaps, realise from experience a short time ago that under the existing legislation, people can throw the Auditor all over the place and, in certain circumstances, he cannot do a thing about it. Hence, we see an amendment.

Added to all that I have just read, we have a subsection (4) which says: **“(4) Where a person fails to comply with direction under subsection (3) within three days from the date of the direction or such longer period as the Auditor-General may permit, the Auditor-General may apply to a court of summary jurisdiction for an order requiring the person to comply with his requirement or direction.”**

It is rational because it does not give him licence to do as he pleases. It says that if an entity or individual does not comply, he has the right to go to court and seek an order that forces them to.

The Speaker: Honourable Member, is it an appropriate time that we now break for the Prayer?

Mr. D. Kurt Tibbetts: Yes, Madam Speaker.

The Speaker: We will now take the luncheon break to enable us to have the National Day of Prayer. We will reconvene at 2 pm this afternoon.

Proceedings suspended at 11.44 am

Proceedings resumed at 3.04 pm

The Speaker: Please be seated. Proceedings are resumed.

Continuation of the debate by the First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker.

Before the break I dealt with the proposed amendments to section 63 of the Law, and I had just finished speaking to subsection (4) which was added in regard to the Auditor General.

Additionally, there is the added subsection (5) which reads, **“(5) Where, in connection with a direction given under subsection (3), the Auditor-General considers it necessary to examine a person on oath, the Auditor-General may apply to a court of summary jurisdiction to have that person examined by the court and to have the results of that examination sent to the Auditor-General.”**

There are two further amendments to that section, (6) and (7). Subsection (6) reads: **“(6) The court shall process an application under subsection (5) and send the results of the examination to the Auditor-General”.**

Subsection (7) reads: **“(7) Where a person complies with a direction under subsection (3) or an order under subsection (4), or gives evidence under subsection (5), such compliance shall not be treated as a breach of any restriction upon disclosure of information by or under any law and shall not give rise to any civil liability.”**

These four amendments to section 63 give the Auditor General authority if in his investigations he comes upon a ‘brick wall’ with any individual or entity that is uncooperative or not compliant with his request. He has the authority through the courts to seek that individual or entity to comply with his request.

I can think of one instance where Government would have been very relieved if legislation of this nature was in place. Therefore, in principle I certainly cannot argue with the amendment as it is put forward and I have no argument against it. It is certainly a fair process because judgements or decisions are not left to the Auditor General alone; he has the support of the court system.

The next proposed amendment speaks to Clause 4 and makes provisions for the permanent appropriation of salaries, emoluments and allowances of members of the judiciary and the magistracy. It is straightforward and I will not dwell on it. I believe that most of the amendments along these lines set a trend, and at this time I think it is appropriate to say that several of these proposed amendments reflect on the

constitutional arrangements that obtain at present. I believe that it has become obvious that at a time when our own constitution is undergoing a review, we need to be very cognisant of that fact. While this review is ongoing we need to reflect on issues that arise from the amendments in this Law which reflect what obtains constitutionally at present.

I will deal with Clause 3 as I skipped over it. Clause 3 amends the definition of the term “chief officer” in the cases of the Portfolio of Legal Affairs and the judicial administration.

In the definition section of the main Law, section (3): **“chief officer” means- (a) in the case of a ministry, the Permanent Secretary of that ministry; (b) (i) in the case of the Portfolio of Internal and External Affairs, the Deputy Chief Secretary;**

(ii) in the case of the Portfolio of Legal Affairs the Solicitor General...”

The proposed amendment will repeal that section and replace it with: **“(b) (ii) in the case of the Portfolio of Legal Affairs, such public officer in the Portfolio as may be designated by the Governor...”**

Originally in the Law, under subsection (e): **“(e) in the case of the judicial department, the person so designated by the Governor;”**

That is to be replaced with: **“(e) in the case of the judicial administration, the court administrator, or such other suitable person designated by the Chief Justice;”**

The proposed amendments in this section will, first of all, change as was originally in the Law the three official members: the First Official Member; the Honourable Chief Secretary with the Deputy Chief Secretary as his chief officer; and the Third Official with the Deputy Financial Secretary as his chief officer. That would still obtain, but instead of it being the Solicitor General, it would change to a person in the Portfolio to be designated by the Governor acting on the advice of the Second Official Member. The person so designated by the Governor in the judicial department now changes to judicial administration and will now be designated as either the Court Administrator or such other suitable person designated by the Chief Justice, which I understand.

In order to deal with that amendment there are some other consequential amendments proposed in the Law which, in my view, have to be dealt with together. Clause 5 in the amending Bill makes clear the powers of ministers, official members and the Governor in Council for the selection of outputs and the powers of chief officers for the selection and acquiring of inputs. Clause 5 in the amending Bill refers to section 39 and there are several amendments in this proposed Bill.

Powers of Ministries, Portfolios and Chief Officers

“39 (1) Subject to section 40, no decision or action may be made or taken by or on behalf of a ministry or portfolio for the purpose of this Law

unless that decision or action has been made, taken, or approved by the chief officer of the said ministry or portfolio.”

That is proposed to be replaced by a new subsection: “39(1) It is the responsibility of a minister or official member to recommend to the Governor in Council the outputs to be purchased from their ministries or portfolios and it is the responsibility of the Governor in Council to determine the outputs to be purchased from a ministry or portfolio; and no outputs may be produced by a ministry or portfolio unless the production of those outputs has been agreed by the Governor in Council in the relevant performance agreement.”

It becomes clearer what the objective is as we go along.

In the first amendment, which is the new subsection (1), it is the responsibility of the minister or the official member who then, in general, will have the chief officer in that ministry or portfolio reporting to him. Let us paint the picture a little bit better.

There is a performance agreement in one of the proposed amendments to come, instead of the Honourable First Official Member being the signatory on behalf of Executive Council for the performance agreements, the amendment will speak to the minister or the official member signing the performance agreement with the chief officer on behalf of the Governor in Council. That is how it is intended to work. So you will have the chief officer who will be in charge of the inputs, which are required to achieve the outputs which are, basically, policy. Then it will be the responsibility of the minister or the official member to make recommendations to the Governor in Council.

Madam Speaker, do not forget now, that minister or official member is a part of that said Governor in Council. That minister or official member will have the responsibility to recommend to the Governor in Council the outputs to be purchased from the ministries or portfolios. This will all become part and parcel of the cohesive government policy reflected via the budget. It will speak, in totality, to the incomes and expenditures that government will incur or receive so as to have the money to vest with the chief officers through the performance agreements. This will enable the inputs to achieve the outputs, which will reflect the policy that has been decided on after being recommended by the minister or official member to Executive Council. It is a bit confusing, but it makes sense because the sequence of events and the chain of command all flow.

Let me read it once more so that it becomes very clear: “39(1) It is the responsibility of a minister or official member to recommend to the Governor in Council the outputs to be purchased from their ministries or portfolios and it is the responsibility in turn of the Governor in Council to determine the outputs to be purchased from a ministry or portfolio; and no outputs may be produced by a ministry or portfolio unless the production of those outputs has been agreed by the

Governor in Council in the relevant performance agreements.”

An example is the Minister for Health recommends that a certain output is to be purchased from his ministry or portfolio, and the Governor in Council understands the available financial resources and, by way of priority, makes a decision that specific output has to be put aside because they will not have enough funds to deal with all of that. Even though that has been recommended, the Governor in Council may not include that in a performance agreement. That means that when the performance agreement is signed by all the parties involved, it is not expected for any of the resources that are available to be used to produce that output, simply because the performance agreement relates with the financial resources to specific outputs and those will be included when signed by the various parties.

The other amendment in that section reads: “(1A) It is the responsibility of the chief officer to determine and acquire the inputs required to produce the outputs specified in his finalised performance agreement and, subject to section 40, no decision or action in relation to inputs shall be made or taken by or on behalf of a ministry or portfolio for the purposes of this Law unless that decision or action has been made, taken, or agreed by the chief officer of the ministry or portfolio.”

That section follows the chain of command again and rests the authority with the chief officer to ensure that there is no variation from the top down with regards to the methodology employed, if it is done in a way that is contrary to what the performance agreement calls for.

For example, let us say that it is the Ministry responsible for the Department of Vehicles and Services and the performance agreement calls for X number of vehicles to be kept in good condition year round. To achieve that output they have X amount of money for employees, parts, tools, et cetera. Suddenly, the Department of Environmental Health, which is not included in the performance agreement, needs four trucks fixed. Even though it is another government department, they do not have any authority to say, *‘Bring those trucks in, we are going to fix them’* unless they vary the performance agreement and ensure when it is signed that the resources are there to do so. Otherwise, it puts the whole situation in a quandary and you will be *‘robbing Peter to pay Paul’*. The whole system will be botched, so to speak, because what is expected to be achieved as outputs at year-end will not be because resources will have to be diverted to satisfy other situations.

As I understand it that is what those amendments speak to. I believe they are coherent enough to only streamline the system better and put the checks and balances in place to prevent such a situation that I just referred to from happening.

Madam Speaker, Clause 6 requires the relevant minister, instead of the chief secretary, to sign

ministry performance agreements on behalf of the Governor in Council. It also requires the Governor to sign the performance agreement of the Portfolio of Legal Affairs under certain circumstances. Clause 6 speaks to an amendment in section 42, so we go to section 42. Before that, Madam Speaker, just let me quickly refer to the new proposed 39(1A) which states: "39(1A) It is the responsibility of the chief officer to determine and acquire the inputs required to produce the outputs specified in his finalised performance agreement and, subject to section 40..."

Section 40 speaks to delegation by the chief officer, and all that means is whether, subject to utilising section 40, there should be any delegation of authority or whether it is the authority used directly.

Performance Specification and Reporting

"42.(1) The chief officer of a ministry or portfolio shall prepare and execute a performance agreement with the Governor in Council in respect of each financial year in accordance with the provisions of this section."

It speaks to what the performance agreements should contain and it has a long list of various items. It speaks to a specification of all of the outputs that the Governor in Council is to purchase from the ministry or portfolio. It includes for each output: a description of the output to be purchased; the quantity of each output; the quality; delivery dates; place of delivery; price to be paid; evidence of delivery to be provided; payment schedule; details of the ownership performance; et cetera.

Section 42(3) goes on to say: **"42(3) The draft performance agreement for a financial year shall be-**

- (a) prepared in accordance with the timetable established each year by the Governor in Council in accordance with section 17;**
- (b) available for review by the Governor in Council as part of the Governor in Council's collective review phase of the budget process in accordance with section 20;**
- (c) presented to the Legislative Assembly by the relevant minister or official member at the same time as the annual plan and estimates for that financial year are presented in accordance with section 24(1)."**

Here we have it all coming together. We go through the five phases of budget process at the varying levels. After each minister or official member brings his portion into the pot, the Governor in Council (which comprises all the ministers and official members) reviews all of these in accordance with section 20. Subsequently, each portion is presented to the Legislative Assembly by the relevant minister or official member.

Section 42(4) reads: **"42(4) The finalised performance agreement –**

- (a) shall be prepared immediately the legislative review phase of the budget process has been completed in accordance with section 21;**
- (b) shall be signed by the chief officer and by the following persons on behalf of the Governor in Council-"**

This is where, as I mentioned earlier, what is proposed in the amendments will vary from the original law which had the Honourable First Official Member signing all of these performance agreements, if I remember correctly, on behalf of the Governor in Council. Section 42 (4)(b)(i) reads: **"(i) in the case of the performance agreement for the chief officer of the Portfolio of Internal and External Affairs, the Chief Secretary; (ii) in the case of the performance agreement for the chief officer of the Portfolio of Legal Affairs, the Attorney General;"**

Here is where we have a proposed amendment which is an addition to what obtained in the original Law: **"(ii) in the case of the performance agreement for the chief officer of the Portfolio of Legal Affairs, the Attorney General"**.

In addition, what is being proposed goes on to read, "...or, where the Attorney-General is the chief officer, the Governor". This means that in the Portfolio of Legal Affairs if the chief officer is someone different from the Honourable Attorney General, then the Attorney General signs the performance agreement on behalf of the Governor in Council for that portfolio. However, in the case where the Attorney General then becomes the chief officer, the Attorney General would have to sign that for the Governor. That is my understanding. The Attorney General reverts from signing on behalf of the Governor in Council to being the chief officer, and then the Governor himself will sign on behalf of the Governor in Council "...in the case of the performance agreement for the chief officer or the Portfolio of Finance and Economic Development, the Financial Secretary" will sign. Then there is another amendment, "...in the case of the performance agreement for the chief officer of a ministry, the relevant minister...". Rather than name out all the ministries, because they will vary from time to time when the subjects change, we speak to a minister, any minister. It will be the minister and not the Governor.

"(c) shall be presented to the Legislative Assembly by the relevant minister or official member on the next sitting day after it has been signed."

Subsection 42 (5): **"(5) As soon as the draft performance agreement or the finalised performance agreement is presented to the Legislative Assembly it shall be a public document and the relevant chief officer shall provide a copy to any person requesting one on payment of a copying charge prescribed by regulations made by the Financial Secretary."**

Subsection (6) in the original Law: **"(6) A performance agreement may be amended during the**

financial year to which it relates with the agreement of the parties to it.”

That is to be repealed and the new amended subsection (6) will read: **“(6) A performance agreement may be amended by the Governor in Council during the financial year to which it relates provided that the price to be paid for each output in the amended performance agreement is sufficient to deliver the outputs required by the amended performance agreements.”**

That too makes all the sense in the world to me because the original (6) speaks to the performance agreements being amended during the financial year to which it relates, with the agreement of the parties to it. However, it does not address the consideration of cost; it is generic.

I go back to my initial example. The proposed amendment says, in general terms, if the ministry under which the Department of Vehicle and Equipment Services has a performance agreement with the chief officer, if these four garbage trucks for the Department of Environmental Health were asked to be dealt with by the Department of Vehicle and Equipment Services, upon receipt of the request the chief officer could say, *‘Let me speak to my minister and see whether we want to take this on. If this is, in our good judgment, the right thing to do, we have to make sure we have the additional financial resources to take care of it’*. Between the chief officer and the minister they speak to their performance agreement and they understand what the additional costs are going to be, alter the performance agreement and include this in. However, they have to go through the process to ensure that when that is recommended to the Governor in Council with regards to that change, the Governor in Council agrees to that and the system allows for the additional financial resources to be had.

The way I understand it, Madam Speaker, you cannot simply vary your performance agreements to add or subtract an output or vary an output either way, unless the system allows for the financial resources to be included in the entire process. If you do not have clarity you may, with the best of intentions, have these performance agreements altered or varied. At the end of the day you are into deficit budgeting and you do not realise it until the whole thing has gone “belly up”. One of my colleagues uses the word “array” and another uses “awry”. “Belly up” means the same thing in this instance. This amendment, set to practical purposes, seems to make all the sense in the world.

The subsequent amendment in the Bill is Clause 8. It relates to the constitutional independence of the Attorney General, the president of the Court of Appeal, the judges of the Court of Appeal, the Chief Justice, the judges of the Grand Court and the Complaints Commissioner, which at present is a vacant post in the Constitution.

The Clause specifies that the principal Law does not affect the constitutional functions or constitutional independence of those officers, and accord-

ingly, provides for altered performance agreement arrangements for the Portfolio of Legal Affairs. Let us see what that says.

Section 77 of the main piece of legislation is found under “Miscellaneous Provisions”. It begins by speaking of the constitutional functions and independence of the Governor and **“Nothing in this Law shall affect [that] . . . or his office or support staff.”** The first four sections refer to His Excellency the Governor and his office.

The first amendment, 77A.(1) reads: **“77A.(1) Nothing in this Law shall affect the constitutional functions or constitutional independence of the Attorney-General.”**

As I continue to go through these amendments, we notice that there are some of them which, almost inherently, attach themselves to each other. When I complete the amendments I will relate the consequences of the amendments, as I see it, to what the objective of the main Law calls for.

I just read 77A.(1) which is the first proposed amendment. 77A.(2) reads: **“(2) The provisions of this Law shall apply to the Portfolio of Legal Affairs, except that- (i) the outputs produced by the portfolio relating to the functions specified in the Constitution shall be specified in the performance agreement for the portfolio but shall not be subject to agreement with Governor in Council in accordance with section 42.”**

This is extremely important and, in my view, we need to discuss it to ensure that there is all good sense and reasoning that will bring about the best result if the Law is amended according to how it is proposed.

I want to read section 77A.(1) and (2) again: **“77A.(1) Nothing in this Law shall affect the constitutional functions or constitutional independence of the Attorney-General.”**

It steps up to the plate and it looks everyone squarely in the eye before it says anything to anyone. Then it says, *‘Listen’*. *No matter what this Law says, no matter what I read from it, or no matter what you read from it*, Madam Speaker, it says, **“Nothing in this Law shall affect the constitutional functions or constitutional independence of the Attorney General.”**

It goes on to say: **“(2) The provisions of this Law shall apply to the Portfolio of Legal Affairs, except that- (i) the outputs produced by the portfolio relating to the functions specified in the constitution shall be specified in the performance agreement for the portfolio but shall not be subject to agreement with the Governor in Council in accordance with section 42.”**

So now, Madam Speaker, we have a situation that this specific amendment being called for is creating a different scenario from each of the other ministries or portfolios involved in the process of creating a budget through all five phases.

Perhaps it might make good sense at this point in time, if you would allow me to quickly refer to what the constitutional arrangements are. I think it is important to understand what those constitutional arrangements are so that we can relate them to what is required to protect those constitutional arrangements.

Madam Speaker, the 1993 amended section 55(A) of the Constitution reads: **“55A.(1) The office of the Attorney-General shall be a public office and the Attorney-General shall be the principal legal adviser to the Government.”**

There are some other subsections below which speak to terminations and so on.

The key section is section 16A of the Constitution, another amendment from 1993. The marginal note reads, **“Power of Attorney-General.”**

“16A.(1) The Attorney-General shall have power in any case in which he considers it desirable so to do –

- (a) **to institute and undertake criminal proceedings against any person in any court in respect of any offence against any law in force in the Islands;** [There is not much left out of that.]
- (b) **to take over and continue any such criminal proceedings that have been instituted by any other person or authority;**
- (c) **to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.**

“16A.(2) The powers of the Attorney-General under subsection (1) of this section may be exercised by him in person or by officers subordinate to him acting under and in accordance with his general or special instructions.

“(3) The powers conferred upon the Attorney-General by subsection (1)(b) and (c) of this section shall be vested in him to the exclusion of any other person or authority.”

Constitutionally, this means that there is absolutely no one that the Attorney General is answerable to when it comes to him taking over and continuing any criminal proceedings that have been instituted by any other person or authority, or for him to discontinue at any stage before judgement is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

“Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance”—I suspect that means ‘insistence’ but maybe ‘instance’ is correct—**“of that person or authority** I [realise now; my colleague is telling me that is a legal term] **by or at the instance of that person or authority at any stage before the person against**

whom the proceedings have been instituted has been charged before the court.”

Subsection (4) reads: **“(4) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court or to Her Majesty in Council shall be deemed to be part of those proceedings.**

“Provided that the powers conferred on the Attorney-General by subsection (1)(c) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.”

Subsection (5) is, again, important, Madam Speaker, and it reads: **“(5) In the exercise of the powers conferred on him by this section, section 23 or section 24 of this Constitution the Attorney-General shall not be subject to the direction or control of any other person or authority.”**

So there is clearly a level of authority vested in the post of Attorney General through our Constitution which makes for a different outlook.

Madam Speaker, having examined the powers of the Attorney General under the constitutional arrangements that obtain presently and referring them back to the various amendments, I want to quickly go to the final amendment and get that out of the way, which is very simple. In the amending Bill Clause 9 deletes from the principal Law references to the Executive Council substituting references to the Governor in Council. I think that is just a question of choice of words. The intent was the same from the very beginning; it is just a matter of changing the way it is said. However, that does not change at any point in time the objectives of the main piece of legislation.

I will revisit the constitutional arrangements, what originally obtained in the Bill and what is being proposed as amendments to the Bill as it relates to the various sections that attach themselves to the office of the Attorney General. The Attorney General refers to either the Attorney General himself, the office of the Attorney General and the other offices below him, the Department as it may be referred to, or whatever other sections.

Madam Speaker, I do not hold out myself at any time to be a “constitutional expert”. However, with a little bit of experience, in most instances I believe if I read it enough times I can understand what it says and what the intent is. With a level of objectivity, I have attempted to look at the relationship between that constitutional arrangement and the proposed amendments, with a view to understanding why the amendments are being put forward in the manner they are and grasping the rationale behind it. Perhaps some may have misunderstood or wondered why I said that it was a pity that the rationale to the amendments were not explained in other instances. Especially in this instance, I have great difficulty not having had the op-

portunity of a detailed explanation as to why the amendments are being put forward. What I have left before me are the pieces of the puzzle that I am trying to put together to understand.

First of all, let me say that while I quite understand what the Constitution says with regards to the post of Attorney General, I do not believe for one second that what the Constitution is saying has any direct reference to the cost of that office's operations. To make it absolutely clear, I do not believe that, for instance, where the Constitution says in 16A subsection (5), "**In the exercise of the powers conferred on him by this section, section 23 or section 24 of this Constitution, the Attorney-General shall not be subject to the direction or control of any other person or authority.**"

Madam Speaker, I am confident that when that amendment was made there was no intention to give licence, because in these instances it meant that the post of Attorney General was not subject to direction or control of any other person or authority. It meant that attached to that was the allowance for a level of expenditure that had no end. I think common sense alone will tell us that is not what was intended by that section of the Constitution. I think more than anything else what it related to was no entity or individual having the right to prevent the Attorney General duly being appointed from doing what his job called for him to do.

Madam Speaker, there is no post in the public sector, including that of His Excellency the Governor regardless of the constitutional arrangements, which must not have some type of check and balance regarding what it costs the coffers for that post to function. That is a position that I take firmly.

While we understand the functions of the office, I believe we likewise must understand that there will need to be some type of check and balance in the system when it comes to what it costs to operate that office. One might quickly jump to the conclusion, with what I just said, to say that what is being proposed does not say that it must not have. That is not my point yet. I will get to my point, but to explain that will take some time and I know we have to adjourn at 4 pm. If you indulge, I would prefer not to get in the middle of that and then have to break. Rather, I would prefer to begin that tomorrow morning.

The Speaker: Seeing that we have about two to three minutes remaining, may I call for a motion for the adjournment?

ADJOURNMENT

Hon. W. McKeever Bush: Madam Speaker, the House was notified this morning of the proposed adjournment at 4 pm for a presentation to acquaint Members with the new format of the Budget.

Therefore, I move the adjournment of this Honourable House until Thursday, 7 November 2002 at 10 am.

The Speaker: The question is that this House now adjourn until Thursday, 7 November 2002 at 10 am.

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

Ayes.

The Speaker: The Ayes have it.

At 3.57 pm the House stood adjourned until Thursday, 7 November 2002, at 10 am.

OFFICIAL HANSARD REPORT
THURSDAY
7 NOVEMBER 2002
10.22 AM
Third Sitting

The Speaker: I shall now invite the Leader of Government Business to grace us with Prayers.

PRAYERS

Hon. W. McKeeva Bush: Let us pray.

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

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

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

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

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

The Speaker: Please be seated.

Proceedings resumed at 10.25 am

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

Apologies

The Speaker: I have received apologies for the Honourable Second Official Member who will be arriving later on this morning. I have also received apologies

from the Honourable Minister for Education who is off the Island on official business until 18 November.

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

The Speaker: The Honourable Leader of Government Business.

European Taxation on Savings

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

For the removal of any doubt that may exist in regard to the position of the Government on the European Union's Draft Savings Directive, the Government has maintained and will maintain a position which places the interest of the Cayman Islands first. In order to ensure that we are able to do that, we are actively monitoring developments on a daily basis.

I cannot stress enough, Madam Speaker, how damaging the European taxation on savings would be to the financial industry of the Cayman Islands. It would ring the death knell for the industry if implemented.

As has been published in the press, the European Union's Draft Directive on the taxation of savings is still the subject of discussions both within the European Union and between the European Union and a number of countries including the United States, Switzerland and Luxembourg. The Government continues to receive a considerable amount of information as the process evolves including information relating to proceedings in the meetings among the European Union Member States, which took place on Tuesday, 5 November 2002.

Based on the information available it would not be prudent for the Cayman Islands to change directions at this time. The situation within Europe and outside of Europe remains fluid and many factors need to be weighed including the results of Tuesday's election in the United States.

We have repeatedly stated that while we can understand the position of the United Kingdom and the other members of the European Union in relation to their domestic economies, we remain willing to discuss matters related to the European Union tax package. However, such discussions can only move forward in a direction and context which safeguards the interests of the Cayman Islands first and foremost. Madam Speaker, there is no other way.

We have made this known not only within these Islands, but to our European partners as well as

the United Kingdom. The Government remains committed to a course which welcomes dialog which is vigilant and which will safeguard the interests of the Cayman Islands. This is the position of the United Democratic Party Government to protect first and foremost our financial industry.

QUESTIONS TO HONOURABLE MEMBERS AND MINISTERS OF THE GOVERNMENT

Question No. 73

Carried forward from the Third Meeting of the Legislative Assembly

The Speaker: The Second Elected Member for George Town.

No. 73: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Planning, Communications and Information Technology if Government has entered, or is contemplating entering, into a contract to purchase additional property for the purpose of a Public Beach in Cayman Brac.

The Speaker: The Honourable Minister responsible for the Ministry of Planning, Communications and Information Technology.

Hon. Linford A. Pierson: Madam Speaker, the answer is no.

The Speaker: Are there any Supplementaries? If not, that concludes question time.

GOVERNMENT BUSINESS

BILLS

SECOND READING

The Public Management and Finance (Amendment) Bill, 2002

(Continuation of debate thereon)

The Speaker: The First Elected Member for George Town continuing his debate with a time remaining of 31 minutes.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker.

When we closed off yesterday I had just completed my argument with regard to the constitutional responsibility of the Honourable Second Official Member. The Constitution in section 16A, subsection (5) specifically states that **“In the exercise of the powers conferred on him by this section, section 24 or**

section 25 of this Constitution the Attorney-General shall not be subject to the direction or control of any other person or authority.” Having accepted what the constitutional arrangement is and we look to the proposed amendment No. 8 in the amending Bill, it speaks to, “The principal Law is amended by inserting after section 77 the following sections: 77(A)(2) The provisions of this Law shall apply to the Portfolio of Legal Affairs except that the outputs produced by the Portfolio relating to the functions specified in the Constitution shall be specified in the performance agreement for the Portfolio but shall not be subject to agreement with the Governor in Council in accordance with section 42.”

I use that as the jumpstart into my next point. While the Constitution says what it says with regards to the autonomy and independence of the Honourable Second Official Member, I take the point that there is no interpretation that can be made from what obtains in the constitution, which would allow for expenditure to be unfettered in that area.

Where the proposed amendment speaks to the provisions of the Law applying to the Portfolio of Legal Affairs — except that the outputs purchased by the portfolio relating to the function specified in the Constitution shall be specified in the agreement but shall not be subject to agreement with the Governor in Council — I am saying that in order to comply with the Constitution, certainly those outputs need not be agreed on by the Governor in Council. What has to be agreed on by the Governor in Council is how much of the country’s revenue is to be attached to achieving those outputs.

In my view, for this to gel with the original intent of the Law, it must be made absolutely clear that the financial aspect needs to be separated distinctly from the fact that the outputs, which the Honourable Second Official Member’s office will be setting out as targets annually, need not be approved or agreed on by the Governor in Council. How much is spent to achieve that must be part and parcel of any performance agreement and must be agreed on by the Governor in Council. Otherwise, Madam Speaker, regardless of what the intent is or what common sense could say, the legislation itself does not create the check and balance that we need. Certainly, Madam Speaker, we on this side of the House cannot support this section that is proposed to be amended unless it is made absolutely clear.

If it is the intent for it to be done as we say, then we say make it clear. I have tried in every way possible to come to grips with it, to say that it says what we want to happen or what we consider to be right to happen. Unfortunately, Madam Speaker, it does not say so to us. Our position is that it needs to be made absolutely clear, otherwise, the question will always arise. Because you see, Madam Speaker, what is absolutely important in matters like this is that we do not look to the individuals within the posts. We need for whatever is the way forward with prudent and

responsible financial management and the system that we speak to. We need to speak to a system. Who fits into it is whoever that is, whether it is today, tomorrow, next year or the year after. So I think that is the way we have to go with that point.

Madam Speaker, there is another issue which I was thinking about last night which is not contained in these amendments, but I would dare say has direct relevance. I simply wish to say to the Government that I think all of us at present are aware that there is something called an "asset sharing fund" that was created some years ago. I do not know if there is any money in the fund and that is not something that I am concerned with as to how much is there, if anything is there. That asset sharing fund, Madam Speaker, even with the experiences that I have had I am not with clarity in my mind as to whether there is an agreed methodology of how the funds are had, whether they are dealt with via negotiations or whatever. That is really not important to me, but the existence of the fund, in my view, needs to be managed in such a way that it directly relates to the new system that is being employed.

It cannot hang out there on its own and you keep wondering from time to time, is there anything there or can we go there. I am saying that there has to be clarity of purpose for the existence of that fund and it has to be made publicly known how the funds are arrived at and to what use they can be put. I think it has to relate directly to the way forward when we go through with these performance agreements.

This leads me to the amendment that is being proposed.

First of all, the proposed amendment under section 42(4)(b) speaks to the draft performance agreement for a financial year. "42(4)(b)(ii) in the case of the performance agreement for the chief officer of the Portfolio of Legal Affairs, the Attorney-General;"

That means: "The finalised performance agreement- (a) shall be prepared immediately the legislative review phase of the budget process has been completed in accordance with section 21; (b) shall be signed by the chief officer and by the following persons on behalf of the Governor in Council- (i) in the case of the performance agreement for the chief officer of a ministry or the Portfolio Internal and External Affairs..." it is the Honourable Attorney General who signs on behalf of the Governor in Council.

The amendment that is being proposed adds to that to say, "or where the Attorney-General is the Chief Officer, the Governor."

If we look back to the amendment in section 3 under the definition section of "chief officer", Madam Speaker, it says, "in the case of the Portfolio of Legal Affairs, such public officer in the Portfolio as may be designated by the Governor acting on the advice of the Attorney-General."

So the amendment to section 3 says that the person who should be the Chief Officer in the Portfolio of Legal Affairs should be such public officer in that

portfolio who may be designated by the Governor acting on the advice of the Attorney General.

Then we hop over to 42(4)(b)(ii) with regard to the performance agreements. So now we have a clear definition as to who the Chief Officer should be, but when we look as to who signs the finalised performance agreement it says, "**in the case of the performance agreement for the chief officer of the Portfolio of Legal Affairs, the Attorney General;**" which is what section 42(4)(b) says. They are proposing to add to it (where the Attorney General is the Chief Officer) "The Governor."

So what is being said, Madam Speaker, as I understand it from the amendments, is simply that if the Chief Officer being proposed for the Portfolio of Legal Affairs is not the Honourable Attorney General, then it is the Attorney General who signs that performance agreement on behalf of Executive Council with whoever that Chief Officer is. What it is saying, Madam Speaker, is that it is very possible for that Chief Officer to be the Attorney General. In the case of the Attorney General being the Chief Officer, then we have to step it up a notch. Instead of him signing it with himself on behalf of Executive Council, we have to go to the president of the Executive Council who is the Governor.

Madam Speaker, my point is that when we look at every other Ministry or Portfolio—and I believe I have this right—there is a clearly defined chain of command. There is a reason why you have a Chief Officer who reports to either the Minister or the Official Member. There is a reason for that because the Chief Officer is who is in charge of the inputs to accomplish the outputs that are agreed on and recommended by the Minister or the Official Member and sanctioned by Executive Council. You cannot physically have one and the same person in charge of the inputs and also in charge of the outputs agreeing on what should be achieved and then single-handedly deciding what tools and resources will be used to achieve them. It cannot happen. It throws away every principle this Law is trying to apply.

Now, Madam Speaker, here is what is important because I hear the *little talk, talk, talk*. There seems to be a problem with what obtains presently with the Human Resources in that Portfolio as to who this should be. It matters not to me and I have no 'axe to grind'. I really do not care. My position is that whatever our position, whatever problem there is within that portfolio in being able to work this situation out to fit the way it should fit, is a separate issue. However, the legislation cannot be created to solve that problem that is immediate because that will not be like that all the time and you cannot allow for that to be like that all the time. So that problem has to be solved to fit the legislation, not the legislation amended to sort out the problem that exists.

There are clearly defined chains of command in the entire process and we cannot make any exceptions. If you make one exception today somebody is

going to find a reason tomorrow why they should be an exception, and there is every good reason for anyone to think that.

Let me make it clear so that no one misunderstands the intention here. I am not suggesting for one second that there is an attempt to tailor this Law so that the Second Official Member can become the Chief Officer. That is not what I am saying. I am speaking to role clarity in a system that is being promoted via this legislation, and it must be known and made absolutely clear that it cannot happen. If the case is that no one thinks that it should be the Honourable Second Official Member who could be the Chief Officer, then the amendment that is being proposed should not be written in this manner because the amendment clearly says, "or where the Attorney General is the Chief Officer." It should not be there. It takes away the accountability process.

You see, Madam Speaker, we have already established that the performance agreement has to be signed by whoever is part and parcel of the collective Executive Council on their behalf. We have already established that the post of Attorney General retains a certain amount of independence and that is a constitutional arrangement. *No problem.* We have already established that we agree that the Governor in Council should not be made to have to agree with the Honourable Second Official Member with regards to what the outputs are. However, in the same breath we have said yes, we hear that because that is the Constitutional arrangement, but we cannot let you spend as you wish. So the amounts have to be distinguished within the performance agreements so that there is a cap.

If something comes up, just like in every other Ministry or Portfolio and the performance agreement needs to be changed because there is something that needs to be done that calls for more resources to be put there, then you do just like everyone else does. You bring your case forward, you get it amended and you both agree on it and you go about your business and you do it. Simple! However, it cannot be that this amendment is allowed.

We have two amendments that we have problems with there. We have the one which must clearly state that the financial arrangements equated to the outputs that are expected by the position of the Honourable Second Official Member must be put in the performance agreement and must be agreed on by Executive Council and that section of it signed on their behalf. We are also saying that because of the whole purpose and the objective of the Law which includes, to a large degree, accountability because regardless of independence there must be accountability, then certainly you cannot have the possibility that one and the same person is dealing with inputs and outputs.

You see, Madam Speaker, the fact that you go up another level and allow His Excellency The Governor to sign on behalf of Council does not change the operation. All it changes is a signature on

the performance agreement. However, the same person who is collectively part and parcel of the Governor in Council, who have agreed on the outputs to be achieved, is going to be the same person who is responsible to decide on the inputs. If that is allowed to happen, Madam Speaker, then you scrap the Law and leave it how it is now. That is what you need to do. There is a reason why this is being done how it is. It is not about lack of trust, but it is about creating a more efficient situation with greater role clarity and greater accountability.

When the time comes for somebody to make assessment of the Chief Officer as to whether the Chief Officer has performed the duties of Chief Officer well for the course of the year, is the Chief Officer going to examine himself? That is what will happen. Why do we have a performance agreement if there is not some check and balance for somebody to make assessments? I think the point is made.

So what we are saying here on the Back Bench with regard to that single point is that they need to re-examine however the structure is within that Portfolio for that structure to fit what the legislation is proposing. They need not to bring this amendment forward to organise that Department as it now exists.

The other thing that we wish to make very clear, Madam Speaker, is that we are not suggesting that it necessarily means that more staff needs to be added. I do not know that. However, it is absolutely clear to us that in that regard there should be no exception. We accept the constitutional responsibility totally, but we cannot see why there has to be any exception. If that is the case, Madam Speaker, then for uniformity sake where it says '**or where the Attorney General is the chief officer**' you would have to add into each one of them, 'or where the Honourable Chief Secretary is the Chief Officer', 'or where the Honourable Financial Secretary is the Chief Officer' and it takes away the purpose of the whole exercise.

There are several amendments being put forward here that we on the Back Bench are "on all fours" with, and we agree that it will strengthen the methodology being employed through this Law to create the system that we wish to create within the public sector. Those two specific points that I spoke to just a while ago, Madam Speaker, are points that we cannot agree with.

The dilemma that we are in which is best for us to speak to, is that we do not wish for the amendments that are in order not to see safe passage through the process in this Legislative Assembly. However, we will be forced to vote against the Bill unless something is done with regard to those two issues. I do not know the answer to that; I do not know procedurally what could happen to that. I know the crystal clear way is for either the Government to bring amendments to that or for the Bill to be withdrawn, rewritten and reintroduced. I am making no suggestions as to what is the best way forward; all I am saying is that we are quite prepared to support the re-

maining amendments thus far, as we have been able to glean.

I have not gone into the situation where we speak to the judicature and the judges and the high courts and that kind of stuff, my colleagues will deal with that. Madam Speaker, to the best of our ability at this time—

The Speaker: Honourable Member, you have 8 minutes remaining.

Mr. D. Kurt Tibbetts: Thank you.

To the best of our ability at this time, that is the position that we can take and that we think is correct. I hope that the Government will find a way to resolve the situation because I think there is common ground in the majority of areas; we just have to distil those two situations and direct them where they are correct.

I believe, Madam Speaker, it is important to be made known that the Public Management and Finance Law 2001 is, as I said in my introduction, perhaps one of the most important pieces of legislation the country has ever seen. It gives great hope to the management of the public sector for the country's sake. It gives the public sector the tools to work with, to be able to be looked upon proudly by the people of this country. We need to give that every chance to work and to work properly. All it takes is concerted efforts and common objectives. I believe that the common objectives prevail within the vast majority, and there is absolutely no reason why we should not be able to steer this properly.

There is a learning curve as we go with it that is accepted and perhaps there will be more amendments that will have to come as it is being worked and tweaked as I said before. We do not have any problems with that because it is one of those pieces of legislation that if you waited for it to come brand new and you really thought it was perfect, perhaps we would never get it. That is one of the ways that we have to deal with it, and we have no problem with that.

Madam Speaker, I encourage the Government to let us find a resolution to this so that we can allow the portions of this amending Bill that need to be approved, to be approved as quickly as we possibly can and I await to hear during the course of our debate exactly what decision is taken in that regard.

Thank you very much.

The Speaker: Thank you.

The Elected Member for East End.

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

I rise to make a contribution to the Bill to amend the Public Management and Finance Law 2001.

I beg your indulgence because the First Elected Member for George Town, the interim leader of the Opposition, spoke first and I am sure that I will

touch on areas that he has touched on, but I believe they bear repeating. To start of with, I will try not to touch on too much of the things the First Elected Member for George Town spoke on.

My big concern, first of all, is the length of time that this Bill has taken to be turned into Law. As I understand the process, a bill is drafted under the auspices of the Attorney General's office through the Draft Office and then it returns to Executive Council for its approval it to be brought to this Honourable House for passage. It then goes through the full process in this Honourable House, and if passed, the Standing Orders make provisions for custody of Bills and assent thereto.

Standing Order 56 is very clear and it says, "**The Clerk shall have custody of all Bills passed by the House and shall, so soon as may be present them to the Governor for his assent.**"

Then the Constitution makes specific provisions for how that Bill will be assented to. Section 39 of the Constitution says: "**(1) A Bill shall not become a Law until—**

- a) **the Governor has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of his assent; or**
- b) **Her Majesty has given Her assent to it through a Secretary of State and the Governor has signified Her assent by Proclamation.**"

Section 9 of the Constitution goes on further and says: "**(2) When a Bill is presented to the Governor for his assent, he shall, subject to the provisions of this Constitution and of any Instructions addressed to him under Her Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents, or refuses to assent, to it, or that he reserves the Bill for the signification of Her Majesty's pleasure:**

"Provided that the Governor shall reserve for the signification of Her Majesty's pleasure—

- a) **any Bill which is in anyway repugnant to, or inconsistency with, the provisions of the Constitution; and**
- b) **any Bill which determines or regulates the privileges, immunities, or powers of the Assembly or of its Members;**

unless he has been authorised by a Secretary of State to assent to it.

"(3) This section shall have effect in relation to any Bill passed by the Legislative Assembly subsisting immediately before the appointment day but not assented to before that day as it has effect in relation to Bills passed after the appointed day."

The process is very clear, and as I understand it, the Governor must act on any Bill that is sent from the Clerk of the Legislative Assembly once it has been passed in the Legislative Assembly. It did not say the

percentage of the Legislative Assembly that has to pass it, it just says pass.

Section 40 of the Constitution says: **“The Governor may return to the Assembly any Bill presented to him for his assent, transmitting therewith any amendments which he may recommend, and the Assembly shall deal with such recommendation.”** I take Section 40 to mean that if the Governor refuses to assent to it for one of those reasons, whether it be repugnant or inconsistent with the provisions of the Constitution, he has a right to send it back with his recommendations.

The Constitution does not make provisions to say whether the Assembly has to approve those recommendations. If the majority of the Members of the Legislative Assembly do not agree with it, they do not agree with it.

Madam Speaker, Section 57 of the Legislative Assembly Standing Orders says: **“1. When, under section 40 of the Constitution, the Governor returns to the House a Bill presented to him for his assent together with amendments which he recommends to the House, that Bill shall be recommended to a committee for the consideration only of such amendments.”**

Since I have been an elected Member of this Honourable House I have not seen that provision of the Constitution utilised by the Governor. Since I have been here I have received Bills gazetted in a timely manner, that is, within a few weeks thereafter. I am standing here today neigh on 14 months after passage of... my colleague said 13, but I think it was the 26th of September, just over 13 months since this Honourable House approved the Public Management and Finance Bill. There was not a percentage like I talked about before other than one 100 per cent of this House.

Here we are bringing an amendment to that Law, which we understand from the Second Official Member was not signed, assented to by the Governor until Monday the 4th, the same day the Third Official Member withdrew an amendment to the Law, as it was called, which was circulated in July which I am sure in retrospect everyone understood was going to be *ultra vires* to the Constitution. First of all, the Governor has to assent to the Law and then you can amend the Law, but the previous amendment was amending the Law which was not a Law; it was still a Bill. On the same day that the Governor assented to that Bill, making it Law, we get a withdrawal of that amendment and then we get the introduction of another amendment, an amending Bill of that Law that was assented to that day.

In my respectful submission, 13 months later is considered totally unreasonable. However, let us talk about how unreasonable it is and how unreasonable the amendments are that were introduced to this Honourable House on the said day.

The Third Official Member, in his introduction to the amending Bill, made no explanation for the de-

lay in the assent from His Excellency the Governor, nor did he make any explanation other than read off the *Memorandum of Objects and Reasons* for the amending Bill.

I am here debating an amending Bill for which I know no reason why it came. I know no reason why this amending Bill is before this Honourable House. I know no reason why the substantive Bill was not assented to. Yet, as a representative I am expected and being asked to give these amendments passage through this Honourable House, which is totally unreasonable. The worst and most unreasonable part of it is that there is no explanation from the Government as to why this Bill is in front of us.

Madam Speaker, all Bills need amending. Life is not perfect therefore when legislation is brought to this Honourable House, mistakes, omissions, oversights, whatever the case may be, are made. That is why we have the Committee Stage.

The Speaker: Honourable Member is this an appropriate time for the morning break?

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

The Speaker: Members, if we could endeavour to take a break of about 15 minutes so that we can continue with the business of the House.

Proceedings suspended at 11.15am

Proceedings resumed at 11.41am

The Speaker: Proceedings are resumed.

Continuation of the debate by the Member for East End.

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

When we took the break I was talking about the process to get where we are. Before it is misconstrued, please allow me to say that, as a result of what the Second Official Member said to this Honourable House on Monday concerning the length of time it took this Bill to reach here, in no way do I blame His Excellency the Governor. For the Governor to assent to a Bill, it has to get on his desk, and it is my understanding that it did not. Obviously, on Monday when it reached his Excellency assented to it. Therefore, I believe that if it was done earlier it would have been assented to and that would have been by the former Governor. So I have some concerns about that.

Additionally, Madam Speaker, the interim leader of the Opposition did mention that the Opposition does not have many problems with the other amending sections being proposed; it is just one or two that we have concerns about. It is my understanding that the Attorney General also has concerns about those amendments, thus the reason why it is here. It is my understanding that the Attorney General considered the Bill as it was presented and the Law as

ultra vires the Constitution, his powers and the likes. Well, I want to go on record as saying that it is also ultra vires, the Constitution that a Bill is held up and not sent to the Governor for his assent.

If the Governor so chooses to receive a legal opinion on that Bill after it gets back to the Governor, keeping in mind that the Governor assented to that Bill in Executive Council as the President for it to come to the Legislative Assembly, he has no control over the amendments that will be made to that. Therefore I respect that he may want to get a legal opinion on that. By the same token, the legal representative of His Excellency the Governor sits in this Honourable House and knows what those amendments are, albeit that there are times that one of his subordinates sits in. However, it is with absolute knowledge as to what those amendments are and the Governor may very well want to have an understanding of that. Therefore the Attorney General is the individual who the Governor will turn to because the Attorney General's constitutional responsibility under section 55 A.(1) says that the office of Attorney General shall be a public office and the Attorney General shall be the principal legal advisor to the Government.

Now, Madam Speaker, my contention is that it is ultra vires the Constitution that these things do not reach the Governor. The Governor has all authority to refuse it, therefore within a reasonable time it should reach the Governor's desk and he seeks advice and then he refuses it and sends it back in accordance with the Constitution. I have not heard any definitive explanation as to why it did not reach the Governor in accordance with the Constitution and the Standing Orders of this Honourable House. Therefore, my debate is based on what the Constitution and the Standing Orders say. I will get to the position of the responsibilities and office of Attorney General in due course.

The amending Bill under section 3 says: "**The principal Law is amended in section 3 as follows – a) in the definition of the term "chief officer" (ii) In the case of the Portfolio of Legal Affairs, such public officer in the Portfolio as may be designated by the Governor acting on the advice of the Attorney General. . .**"

Now, Madam Speaker, when we look at the Bill, it is very specific who the chief officers are, such as in the cases of the Auditor Office, the Internal and External Affairs and a Ministry, the Permanent Secretary of that Ministry. There are no provisions which say "on the advice of the Minister" that the Chief Officer will be designated.

Section 42(4)(b)(ii) says: "**(ii) in the case of the performance agreement for the chief officer of the Portfolio of Legal Affairs, the Attorney-General;**" or where the Attorney General is the Chief Officer the Governor.

What that says to me is that there is a very high possibility that the Attorney General can be a Chief Officer.

I want to make it abundantly clear. I am not necessarily talking about the current Attorney General, I am talking: (1) about the position and (2) that this Law is going to be around for a very long time. Regardless of the reasons that this amendment is being proposed, we have to ensure that present and future we have all the mechanisms in place to ensure that we do not have problems. I agree that we may need to amend it again.

Again, it is my understanding that this comes as a result of the feeling that under 16A the powers of the Attorney General would be curtailed in his responsibilities. Under 16A of the Constitution the Attorney General has the power to prosecute, undertake criminal proceedings, that is, of any person or authority in the interest of the public and then subsection 3 under 16A says: "**The powers conferred upon the Attorney-General by subsections (1)(b) and (c) of this section shall be vested in him to the exclusion of any other person or authority:**"

Now, Madam Speaker, let us look at that critically. I am not prepared to stand up in this Honourable House and take away those powers from the Attorney General. I would prefer to see a Director of Public Prosecution (DPP) because that way the Attorney General would perform his principal function which is legal advisor to the Government.

That is what we have currently, but I would prefer to see the Director of Public Prosecution. I want to see enshrined in our Constitution that that too has autonomy, because when we really look at it the Attorney General position carries too many hats. He is in charge of prosecution and the legal advisor to Government. He legislates the Laws and then he has the authority to go to court and prosecute. He also serves on Executive Council and here we are with a very high possibility that he will also be a Chief Officer in control of the funds.

Madam Speaker, I will support and I will defend the Constitution with every breath in my body until we get it changed. We, the Elected Members of this Honourable House and the representatives of the people, are on the brink of going to London to discuss a new constitution. However, I cannot and I refuse to support an Attorney General in this country having total control of monies that belong to the people. It is unreasonable for anyone to expect that the Attorney General budgets \$100 this year for prosecutions and crime rate increase and we do not give him the rest of the money to continue the prosecution because it is not the call of the Legislative Assembly to decide who to prosecute. That is a separate function. Certainly, any Attorney General cannot be unto himself with the people's funds. There must be some accountability.
[Honourable Second Official Member rose]

The Speaker: Do you have a point of order, Honourable Second Official Member?

Hon. David F. Ballantyne: I do, Madam Speaker.

The Speaker: Please state it.

Point of [Clarification]

Hon. David F. Ballantyne: It is simply that I may be anticipating remarks that I will make at a later stage, but I think, with due respect, it is misleading to suggest that provisions before the House would result in the Attorney General or anyone else having unlimited access to funds. I know there is a difference of opinion about that, but I just want to make it clear that is not the position that I take on the matter, and therefore, I wish to register that point in the interest of clarity if that is appropriate.

The Speaker: Are you finished, Honourable Second Official Member?

Hon. David F. Ballantyne: I think so, Madam Speaker. Thank you.

Perhaps I should make it a point of clarification if that is more appropriate.

Thank you.

The Speaker: I take it that the Member for East End gave way.

Mr. V. Arden McLean: No, I did not so it can be struck from the record, Madam Speaker.

Hon. David F. Ballantyne: Well, if that is the case Madam Speaker, I would invite you to deal with it in a way where I can make it as a point of clarification. I think it is important and I would ask that the Chair deal with it accordingly.

Thank you.

The Speaker: Honourable Second Member, if you could please repeat your last sentence because I had difficulty in hearing.

Hon. David F. Ballantyne: Yes, Madam Speaker.

I would like it to be on the record of the House that I sought to make a point of clarification. If I did not achieve that because the Honourable Member did not give way, I would like the opportunity to make that point of clarification properly, if I have not already done so.

The Speaker: The ruling from the Chair is as follows: the Standing Orders stipulate that if it is not a point of order and it is a point of elucidation, the Member has to give way. I take it that it fell within the latter category. Therefore, what you have just said, because of the manner in which it happened, the reverse mode falls within the *Hansards* and in the event you will have an opportunity at a point of debate to make any further clarifications.

The Elected Member for East End.

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

That is precisely why on two occasions during this debate I said that I am debating this on what my interpretation of all of this is. No explanation has been given, and maybe if the Government had stood in here and explained all of these things we would not be here.

The Speaker: Honourable Member, I have made my remarks in respect to that point, so if you could move on.

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

I was referring to the possibility of the Attorney General having full autonomy with funds. Under the Powers of Ministries, Portfolios and chief officers the amendment that is being proposed is, "It is the responsibility of a minister or official member to recommend to the Governor in Council the outputs to be purchased from their ministries or portfolios and it is the responsibility of the Governor in Council to determine the outputs to be purchased from a ministry or portfolio; and no outputs may be produced by a ministry or portfolio unless the production of those outputs has been agreed by the Governor in Council in the relevant performance agreement."

1(A) then says, "It is the responsibility of the chief officer to determine and acquire the inputs required to produce the outputs specified in his finalised performance agreement and, subject to section 40, no decision or action in relation to inputs shall be made or taken by or on behalf of a ministry or portfolio for the purposes of this Law unless that decision or action has been made, taken, or agreed by the chief officer of the ministry or portfolio."

Madam Speaker, if we have one in the same performing the two duties then we have control. You cannot appeal from Caesar to Caesar. It is the responsibility of the Ministers and the head of the Portfolios to sign this agreement with Executive Council, but that is also on behalf of the Chief Officer. If you have the same person doing the two jobs then what control do we have over that individual when it comes to the monies? Then you have the same individual reporting it to Executive Council, the Governor in Council. That disrupts the whole process. It makes a laughing stock of this Law and I am not prepared to be made a laughing stock of.

I am going to make it very clear that I am prepared to support the other amendments. However, because they are tied in with this one which makes the Attorney General the Chief Officer, I am not prepared to do it and there will be a resounding "no" from myself. I speak for everybody on this side, I cannot support—

The Speaker: Honourable Member, perhaps you may wish to consider your last statement. Out of an abundance of caution, the Law does not make the Attorney General the chief officer, it creates the possibility.

Mr. V. Arden McLean: Yes, Madam Speaker. It creates the possibility—but that is a possibility that scares me. I am not speaking about the current Attorney General, but what happens years down the road when we get an Attorney General who wants to become the chief officer? I know we are going to have a division on this one too because it is going to be a no, at least one no coming from me.

If the Government is mindful to bring more amendments, then so be it. I do not want to impede them in anything they want to do, I do not want to stop them, but as this is presented to this Honourable House I am not prepared to support it and we are not prepared to support it.

Madam Speaker, with your indulgence, I would like to read from the infamous White Paper.

The Speaker: Please proceed, and state the page if you would.

Mr. V. Arden McLean: Madam Speaker, Thank you. On page 25 of the White Paper, under the subheading “Auditing and Financial Accountability” it says that the existence of proper financial procedures and controls including the availability of timely audited accounts of public sector activities is necessary for the proper administration of public expenditure.

The Overseas Territory’s past record with both the standard and the timeliness of draft and unaudited accounts has been mixed. We will give high priority to ensuring that Overseas Territories have in place sound procedures for administration and Government finances with adequate internal audits.

Overseas Territories will be required to produce timely, independent audited annual accounts for all public sector activities to UK standards, with full identification of contingent financial liabilities. The accounts shall be subject to scrutiny by the Territory’s legislature and, where appropriate, by a fully functioning Public Accounts Committee.

In Overseas Territories accounting and auditing legislation will need to be updated to underpin this process. We stand ready to give expert advice and assistance to help Overseas Territories bring their audit and statistical systems up to the required standard.

Madam Speaker, if that does not tell me that England expects this Legislature to have some kind of reporting back to them and the standards that they require of their Overseas Territories, this amendment falls way short of it.

This is the famous (or infamous) White Paper, whichever way we would like to consider it, the Partnership for Progress and Prosperity. I am sure we all know where that came from.

On top of that we are going to England very shortly to deal with the Constitution. The buzzwords, particularly leading up to the 2000 Election, were accountability, responsibility and transparency. Where is the transparency in this amendment?

When we have other Ministries and Portfolios with a chief officer below the Ministers and Head of the Portfolios, why is it that the Solicitor General cannot be a chief officer? It was proposed in the Law. It was proposed in the Bill and it was passed in this Legislative Assembly, with the Solicitor General as the chief officer in the Legal Affairs Portfolio.

Point of Order

Hon. David F. Ballantyne: Madam Speaker, point of order, if I may?

The Speaker: Please state your point of order.

Hon. David F. Ballantyne: The amendment as proposed does allow for the Solicitor General to be chief officer.

The Speaker: That is correct.

Member for East End, in making your presentation please make that distinction. As I previously indicated there is a possibility and it is not mandatory.

Mr. V. Arden McLean: Yes, Madam Speaker, I was going on to that. The Second Official Member was a little bit jumpy with me. Nevertheless, I take the point.

Madam Speaker, yes that is a possibility that the Solicitor General can be the chief officer, but so can the Attorney General. Secondly, in the substantive Bill he is appointed, mandated to be the Chief Officer. Why then do we not take out the Deputy Financial Secretary, being the chief officer of the Finance Portfolio? Why not then take out the Deputy Chief Secretary being the chief officer in the Portfolio of Internal and External Affairs? I want to see that amendment come too.

What we are talking about is moot. Is it a possibility that he can be? He was! We are changing it! So we must stop getting up on these points of order about the possibility that he can be. He was mandated to be the Chief Officer! All of a sudden now we are changing that to —

Point of Order

Hon. David F. Ballantyne: Point of order.

The Speaker: What is your point of order?

Hon. David F. Ballantyne: My point was not in relation to the existing Law, which I agree with the Honourable Member is the position. My point was in relation to the amending Bill, which is what we are debating.

The Speaker: That is a point of order, but I believe the Member for East End was doing a comparative analysis of the amendment and the substantive Law. I wish to make it abundantly clear that once you are

referring to the amending Law, please make the distinction in it.

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

I missed something there because we are talking about the amending Bill to amend a substantive Law. I am debating the amending Bill but it is taking something out of the substantive Law and it refers to the substantive Law. You cannot bring an amendment to nothing.

Maybe I am wrong, but I just do not understand. Nevertheless, I still have to go back to the same thing. The Solicitor General was mandated to become chief officer. That is it. I am debating an amendment to remove him from the mandatory position of chief officer. Why do we put it now that there is a possibility that he can be when we approved on the 26th September 2001 that he must be? Why? Maybe somebody needs to explain this to us.

I have heard some people call it the *shoo shoo around* about how the Solicitor General's responsibility does not encompass all of the Portfolio and the day-to-day running, such as the Law School, the Drafting Department and the Law Review, those type of things. Now I ask the question, If that is so, who in this country stands in for the Attorney General during his absences including illness, vacation official business and the likes? Since I have been in this Honourable House and during the sittings, I have seen the Solicitor General being sworn in here, standing as a Temporary Second Official Member. That responsibility can only be delegated through the Attorney General's Office and the Governor.

If the Solicitor General can stand in for the Attorney General then there must be some abilities the Solicitor General has in order to do that or he would not be here. There would have to be another public officer standing in, and I am going to prove that.

Madam Speaker, Office of Appointments in the Constitution at Section 54: **"The Governor, in Her Majesty's name and on Her behalf, may constitute such offices for the Islands as may lawfully be constituted by Her Majesty and, subject to the provisions of any law in force in the Islands, may make appointments (including appointments on promotion and transfer) to any such office; and any person so appointed shall, unless it is otherwise provided by any such law, hold office during Her Majesty's pleasure."**

If we are concerned that the Solicitor General's responsibility does not include the three areas that I mentioned, it is a simple case of the Governor exercising his powers on recommendations and making the Solicitor General Deputy Attorney General. Then all of those responsibilities will fall under him. Then we have our chief officer. If that is the excuse, I am proposing a solution to it. Why is it, Madam Speaker? Is he not competent? Is he not capable of being a Deputy Attorney General? If such were the case he would not be where he is.

Then when we look at it and hear how they are going to structure the Portfolios from hereon in, they are going to hire a financial person called Chief Financial Officer (CFO) for each Portfolio. I support that because we all do not have the understanding of the accounting system, we hire someone who does. If we can hire them for the rest of the service, why not hire one for the Portfolio of Legal Affairs and he work under the Solicitor General? That is simple. I cannot see anything simpler.

I am not debating this trying to take anything away from the Attorney General or the position of the Attorney General. Logically, it does not make sense for us to bog the position of Attorney General down with the figures and the accounting of the finances within that Portfolio.

If the Solicitor General is out of order provisions are made in the Constitution again for the Governor to exercise his powers. Section 55 of the Constitution says, **"Subject to the provisions of any law in force in the Island, the Governor may for cause shown to his satisfaction dismiss or suspend from the exercise of his office any person holding a public office, or take such disciplinary action as may seem to him to be desirable."**

Madam Speaker, it says, **"the Governor may for cause shown to his satisfaction"**. Prove to the Governor that the Solicitor General is not what he is suppose to be and then we will not have a Chief Officer in the form of Solicitor General, we would just have to get another Solicitor General.

Removing the mandatory appointment of the Solicitor General as Chief Officer destroys this whole Law. Disciplinary action would also come into place in the event there is a clash between the expenditures of money relating to that Portfolio between the Solicitor General as a Chief Officer and the Attorney General's position. It would have to. Is it our fear that we get a Solicitor General that we are going to have confrontation with on every aspect of running the Department? That is unreasonable and we cannot anticipate that.

Madam Speaker, there has always been this fear, as I perceive it, of one of us rising to the top. There has always been that fear in this country. Many people do not want that, particularly if the individual is from this country. We must move away from that fear. If people are competent, let them do the job regardless of where they are from, regardless of their origin.

In my view, there is no need for the amendment in 42(4)(b)(ii). It states: **(ii) "in paragraph (ii), by inserting after the words "the Attorney-General" the words "or, where the Attorney-General is the chief officer, the Governor."**

Madam Speaker, 42(4)(b)(ii), prior to this new amending Bill, would have read, **"in the case of the performance agreement for the chief officer of the Portfolio of Legal Affairs, the Attorney-General"**. That is the finalised performance agreement and who should sign it.

Now we are saying, “**and where the Attorney-General is the chief officer the Governor.**” Now, we also hear that it is not necessary that the Attorney General will become a chief officer. Why then spell it out here, Madam Speaker? Would changing the definition of chief officer not suffice?

When we look at 42(4)(c) it says: “**(4) The finalised performance agreement— (c) shall be presented to the Legislative Assembly by the relevant minister or official member on the next sitting day after it has been signed.**”

That speaks volumes. I believe the intent of that was, in my submission, the Minister and the heads of the Portfolios, having signed it with the chief officer, will report it to the Legislative Assembly. I am sure if the Attorney General is chief officer the Governor is not coming down here to present anything. So who is going to present it? It is mandated that it must come. Who is going to present it, Madam Speaker? Of course it would then be the responsibility of the Second Official Member, who is also the Attorney General. He will be the chief officer.

No, Madam Speaker, that is not how this goes. This convolutes the whole process. It takes away from the transparency, the same way I talked about the Attorney General's position being that and having responsibility for prosecution, for drafting the Law and voting on the Law. That needs to stop. We cannot then go into another convoluted position with the Attorney General's position. The Attorney General's position will soon be more powerful than His Excellency the Governor! His Excellency the Governor is head of state! The Attorney General's position must be that of legal advisor to the Government.

The new Constitution proposal suggests an elected Attorney General. While I support that, Madam Speaker, I believe that it should be a Minister of Legal Affairs, but the Attorney General's position should be that of legal advisor to the Government, Her Majesty's Government in this country. We do not need the Attorney General to have so many powers. The position of Attorney General in this country has too much power, and I am not prepared to add another one to it.

Now, I know that there will be many coming behind me, but I have said what I have to say and that will be the responsibility of those who come behind to say what they have to say. I trust and I hope that the Government can shoot holes in my argument and explain this thing and convince me, before the vote comes to this Honourable floor, why I should vote yes. It is their responsibility. Maybe if it was explained from the beginning I would not be here debating this from such a strong position, I would have been deflated a long time ago. However, the mover of the Bill made no mention of why we had to change it. He needs to do some serious convincing in the absence of a withdrawal of that section, or amendment to that section. He needs to do some serious convincing on this floor

in his reply to convince me to vote, and that is the whole Opposition I am talking about.

I understand the need to have this Law in place prior to the Budget being laid in this Honourable House. We voted for that Bill to change the financial year of Government, and I understand the need to have it done, but you know, Madam Speaker, this could have been done a long time ago. Government has been operating within the last year on the basis that they are going to bring a six-month budget and the financial year is going to change. I do not have a problem with supporting the Bill, the Law having come into effect, but not even at the eleventh hour, the twelfth hour, the Governor assents to the Bill.

I then ask, Madam Speaker, Why the rush to have the amendments done? There was no need for the amendments to come here now, Madam Speaker. All we needed was the Governor to assent to the Bill so we could bring the Budget. That is all we needed, nothing else. There is no need for any amending legislation for the Budget to be brought here. None. There is nothing in here saying that the financial year is going to change back, or whatever. There is no need to have these amendments on this floor at this time, there is none.

We are wasting the country's time with this amendment. There are other things to get on with. These amendments, whatever they are, could have been brought at a later time. If the Bill had been assented to a year ago all this would have been debated a long time also. Why the rush? Why the lack of explanation for this? We, in the Opposition, stand here, opposing a Government position and we do not know why the Government has this position.

I know the sky is not that tall for a lot of people. I am just wondering who was up on the stilts picking this one out of the sky. This is not the way to go. The building of ivory towers needs to stop; the creating of white elephants needs to stop. Everybody has their agenda and it is personal. It is not about the country anymore.

The Speaker: Is that your opinion, Honourable Member?

Mr. V. Arden McLean: Yes, Madam Speaker.

We need to think about the future, and I understand the Law, as was passed, will come for more amendments. I am sure we did not capture everything. Why can we not review the Law as it is and stop piece-mealing these things and not explaining them? Is this what Parliament has come to? We have no explanation, you must just sign off? I am sorry to say, Madam Speaker, but Arden McLean will not be signing off without an explanation, and it had better be a good one to convince me.

The Public Management and Finance Law could not be operated because there was a law in place. Therefore the Government, specifically the Elected Government, I am sure was in a quandary

with having to come here to defend a six-month budget when it was illegal. Therefore their efforts must have been in the direction to try to get the new Public Management and Finance Law into place, and we wait until the next budget becomes available. There was adequate time to do this because on the 26 September 2001 we approved clause 2 in the Law, which said: **“2. (1) Subject to the subsection (2), (3) and (4), this Law shall come into force on 1 January, 2002.”**

Now we want to change that. There was adequate time. I talked at the beginning of my debate about the 13 months it has been hanging in limbo on somebody's desk. Here we are and we need this Law in place to be able to bring a six-month budget. Then we say that now we are changing that to say that the Law does not come into force until the date of publication of this Law in the Gazette.

So I ask then, when will the Budget be introduced to this Honourable House? It cannot be tomorrow! It cannot be tomorrow unless we are going to burn the midnight oil and gazette this Law tonight, before 10 o'clock tomorrow morning! That is the damage sitting that Bill on somebody's desk has done.

I trust we are not going to get in a position where it has already been gazetted since Monday. I hope that is not the case. That further compounds the unreasonableness to ask me and all Honourable Members to vote for this amending legislation.

The Speaker: Is this an appropriate for the luncheon break, as it is now 12.45pm?

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

The Speaker: We will now break for lunch and reconvene at 2.15pm.

Proceedings suspended at 12.45 pm

Proceedings resumed at 2.55 pm

The Speaker: Please be seated. Proceedings are resumed.

The Elected Member for the District of East End continuing his debate.

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

When we broke for lunch I was touching on the commencement section of the Law and the now amendment before us changing that commencement date from 1 January 2002 to the date of publication of the Law in the Gazette.

The Speaker: Honourable Member, you have 43 minutes remaining.

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

As I see it, maybe I have misrepresented some of the facts, so I think I should try to clarify them.

The commencement of the Law coming into force should have been 1 January 2002. That was, I suspect, presuming that it was assented to prior to 1 January 2002 because section 15 of the Interpretation Law specifically says: **“15. (1) Every Law shall, unless it is otherwise therein expressly provided, come into operation on the day of the publication of the notification of assent.”** So if the Governor assented to this Bill on Monday, 4 January, then it would come into force retroactively. Thus, I suspect the reason why the amendment to the commencement date is being proposed to repeal the words “on the 1 January 2000” and substituting “on the date of publication of this Law in the Gazette”. I recognise now that is a clean-up exercise to see to it that this was not done retroactively as a result of the Bill being held up and not sent to the Governor for his assent.

Madam Speaker, as I have said, I and the other Members of the Opposition will not go to task on some of the other amendments. I believe that it is necessary, for instance, for the Auditor General to have powers to be able to take people to the courts under this Law. We know of instances where his hands have been tied, and I really do not have any objections to that. Unfortunately, section 77(a) allows the Attorney General's office such broad powers, in my respectful opinion, and it is somewhat troubling. As well, it extends to the amendment of 42(4)(b) where the Attorney General can be a chief officer.

Madam Speaker, the amendment to section 3 of the substantive Bill is also of concern, wherein the definition states that, **“3(a) (ii) in the case of the Portfolio of Legal Affairs, such public officer in the Portfolio as may be designated by the Governor acting on the advice of the Attorney-General.”**

As I said earlier, we passed a bill mandating that the Solicitor General would be, and it reads as follows: **“(b) (i) in the case of the Portfolio of Legal Affairs the Solicitor General.”**

That is in the definition of “chief officer” where it says: **“chief officer” means—**a) in the case of a ministry, the Permanent Secretary of that ministry
b) (i) in the case of the Portfolio of Internal and External Affairs, the Deputy Chief Secretary;
(ii) in the case of the Portfolio of Legal Affairs, the Solicitor General; and
(iii) in the case of the Portfolio of Finance and Economic Development, the Deputy Financial Secretary;”

The proposal is that we change (ii) to read, **“in the case of the Portfolio of Legal Affairs, such public officer in the Portfolio as may be designated by the Governor acting on the advice of the Attorney General.”** I cannot support that; I cannot support changing of the guard for no reason. I will not support that. I will not support section 44(4)(b) where the Attorney General may very well be a chief officer.

Madam Speaker, in closing I would just like to say that my arguments and my debate are on the positions. It matters not to me who fills those positions, but those positions must be controlled to the extent that it is possible, when it comes to this country's finance, that we do not have a runaway train and it is mandated by Law. It is my submission that to leave these amendments in place could possibly result in a runaway train and conflicts between the office of the Attorney General and Executive Council, Finance Committee, the Auditor General and the Legislative Assembly.

I wonder what would happen if the Auditor General, with his powers, summons papers from the Attorney General's office and the Attorney General refuses to submit to that request. Who then will present the Auditor General's position in court? Certainly, it would be the Attorney General who he would be requesting information from, and it would also be the chief officer. I cannot support that. There has to be some transparency in this. There has to be a chain of command and accountability.

I challenge the Government this evening to further review these amendments and at some stage, if they so choose bring them back, or maybe at Committee Stage remove those controversial ones. I also challenge my colleagues to ensure that these amendments do not pass this Honourable House.

I thank you Madam Speaker.

The Speaker: Does any other Member wish to speak?

The Second Official Member.

Hon. David F. Ballantyne: Thank you, Madam Speaker.

I am glad to have the opportunity to contribute to the debate and, perhaps, to shed some light on some of the issues that have so far occurred.

I appreciate the contributions made so far because they have served to inform the House of the concerns presently of certain Members. I would like to take a little time to try to deal with some of these issues so that the House and the public might be better informed about the reasons why the Government brought this legislation.

I am going to deal, first of all, with problems with the Law. Subsequently, I will deal with issues concerning respect for the Constitution. Then I will deal attempts to solve the problem, alternative courses of action and their consequences. Following that I will address the complaints in submissions made by the Honourable Members as best I can and the question of how the issues, at this juncture, might be resolved.

Problems with the Law: No one likes to have problems with the Law including me. However, on receipt of a Law passed by the Legislative Assembly, a legal report requires to be submitted advising that the Governor's assent may properly be given. This is the

convention that is followed. There appears to be no specific legal provision to that effect, but the Constitution makes the Attorney General the principal legal advisor to the Government, which includes the Governor. This convention of submitting a legal report has been followed, as I understand, over many years.

Among the problems identified at that stage was the chief officer's designation for the Legal Portfolio. The powers in section 39(1) of the Law give the chief officer control over the exercise of constitutional functions of prosecution and legal advice; the absence of provisions to secure the independence of the Attorney General's functions; and perhaps more importantly, the independence of the judiciary.

These issues were summarised following discussions with Mr. Bradley, the Overseas Territory Constitutional advisor, in his capacity as Law Revision Commissioner and First Legislative Counsel. They were summarised, first of all, on 11 December 2001 in a memorandum which was the collective view of all three persons that I have described. It simply said that set out hereunder are the main areas of concern which were raised at yesterday's meeting.

In section 3 the definition of the term 'chief officer', so far as that relates to the Portfolio of Legal Affairs, may be inappropriate. The Solicitor General has responsibility for the Legal Department but has no responsibility for the office of the Attorney General, the Law School, and the Legislative Drafting Department of the Law Revision Commission. In view of the constitutional responsibilities and functions of the Attorney General, it would be more appropriate for the Attorney General to be chief officer for the purposes of the Law.

Secondly, throughout the Law the reference to the 'Executive Council' should be replaced by references to 'Governor in Council' (see section 13 of the Constitution).

Thirdly, the Law should contain provisions similar to section 77 with a view to protecting the independence of the office of the Attorney General and the judiciary.

I pause at this point, Madam Speaker, to remind us all that section 77 of the Law is in the following terms: "nothing in this Law shall affect the constitutional functions or independence of the Governor, his office and support staff. . ." And it goes on to detail—

[The Second Elected Member for George Town rose]

The Speaker: Is there a point of order, Second Elected Member for George Town?

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I wonder if you could ask the Honourable Second Official Member if he would kindly table the document from which he is reading.

The Speaker: Honourable Second Official Member, are you reading your prepared speech, or is it a separate document from Government?

Hon. David F. Ballantyne: I was referring to a memorandum of 11 December, and I am quite happy to table that. It is from the First Legislative Counsel to me.

I should say, in this process I have no difficulty providing the House with the entirety of correspondence that has passed on the issue, if that were the wish of the House. I only have one copy of this at present, but I do undertake to table it as soon as I may conveniently do that. I may also say, I have and will table a copy of my own handwritten notes made on reviewing the Law for purposes of the legal report, identifying the issues at that stage. This was for my own purposes as an aide memoir, but again, I am happy to table that.

The Speaker: Perhaps once you have completed the utilisation of the same you could make a submission for it to be tabled and I will so order.

Hon. David F. Ballantyne: Yes, I will endeavour to do that, Madam Speaker.

I was simply making the point that section 77 of the Law made provision for the independence of the office of the Governor, but for no other office at that stage.

Following upon the Memorandum of 11 December, an amending Bill was prepared by 18 December 2001. It did not progress at that stage because it was desired to bring the existing law into effect without dealing with any amendment at that point in time by those responsible for the Bill.

If I may move on and touch on the Constitutional issues which are at the heart of the concerns of the original Law. As the second theme in my submission I have only outlined the problems in the Law, but it will become clearer as to what the detailed nature of those problems were perceived to be.

Respect for the Constitution

I am sure we all have respect for the Constitution and we all abide by and live under the Law. However, as a matter of law, any provision in a law which is repugnant to any provision in the Constitution is null and void to the extent of the repugnancy or inconsistency. That comes about primarily because of a law entitled "The Colonial Laws Validity Act". I believe it is of 1865 and I believe that the relevant section is section 2. There is no supremacy provision as such in the Constitution, but I think it would be common ground that we all acknowledge that it is of superior force to any other locally made law.

In my opinion—

[Inaudible comment from an Honourable Member of the House]

Hon. David F. Ballantyne: I beg you pardon... Sorry, I thought that you were disagreeing.

The Speaker: Please restrain crosstalk, Members.

Hon. David F. Ballantyne: Madam Speaker, I apologise for my part in that intervention.

In my opinion, section 39(1) of the Law was inconsistent with the Constitution because it gave chief officers control over the exercise of executive powers. That power was vested in officials and Ministers by the Constitution, or by the Governor under the Constitution.

Now it emerged, in all fairness, that this was not only a problem for the Legal Portfolio in relation to the Attorney General's constitutional functions, which is where the matter originally surfaced, but it meant that Ministers could not alter a budget or a performance agreement without the agreement of their chief officer. This is not to imply bad faith on the part of chief officers but simply to say that in the existing Law, as a matter of Law, it would require the consent of the chief officer under the provisions of section 39(1).

In my view, that would give effective control to chief officers with Ministers and Official Members retaining responsibility but lacking full authority to discharge those responsibilities.

I understand that there is no contention over the issue of the amendment of section 39(1) and we can come to that a little later. In fact, some view it as an improvement. I believe that the former Leader of Government Business acknowledged the First Elected Member for George Town to give him his proper title.

My position on the chief officer issue is on legal principle, not because of any personal issue, nor any other consideration. It is not, if I may say at this juncture, any desire to have any more responsibility than the position which I hold already carries.

I sought advice, as I mentioned earlier, from Mr. Bradley to make sure that I was not going wrong, because one lawyer's opinion is one lawyer's opinion, even though he may be the Government's principal legal advisor. I would like to share his opinion on the matter, and I will table this also if I am permitted to do so. The writing is quite small so if you would bear with me.

"17 January 2002.

"Dear Attorney General,

"Public Management and Finance Law, 2001

"1. Your letter of the 16th. inst. refers. In that letter you set out certain concerns, both administrative and constitutional and seek my legal opinion regarding them. Below I set out my opinion on the matters referred to by you in your letter.

"2. The Solicitor-General as 'chief officer': If the Solicitor-General does not have management responsibility for the entire Legal Portfolio but only part of it, then the aim of the Law to equate financial and management responsibility is not achieved. Whilst I presume that in the other two

official portfolios the Deputy CS and the Deputy-FS do have such matching responsibilities, such equation could not be achieved by having the Solicitor-General taking over management responsibility for the whole legal portfolio. The reason for that is that, under section 16A of the Constitution, the Attorney-General is vested with a considerable number of powers in relation to criminal matters and such are *'vested in him to the exclusion of any other person or authority'*. To have the Solicitor-General in a position whereby he could withhold the provision of funds and thus prevent the Attorney-General instituting criminal proceedings would clearly be *ultra vires* the Constitution, as would the withholding of funds for the employment of outside specialist counsel for opinions or to appear in court and thus inhibiting the Attorney-General from carrying out his duties under section 55A(l) as *'the principal legal adviser to the Government'*.

“3. The Attorney-General as 'chief officer': To designate the Attorney-General as chief officer instead of the Solicitor-General might, on first consideration, appear to address the concerns raised in paragraph 2, but would not, in my opinion, resolve possible conflicts with the Constitution. The Law, at sections 20, 22 and elsewhere purport to give 'Executive Council' (the use of which term I shall return to later) powers which could be exercised in such a manner as to be inconsistent with section 16A (5) of the Constitution which states that in the exercise of his powers *'the Attorney-General shall not be subject to the direction or control of any other person or authority'*. In my opinion this potential conflict can only be avoided by the insertion of a new section 77 A as set out in Clause 3 of the amending Bill at paragraph (a).

“4. The Judiciary and the Complaints Commissioner: Section 49 I of the Constitution provides that the Grand Court *'shall have such jurisdiction and powers as may be conferred on it by this Constitution and any other law'*. Similarly the Court of Appeal at section 49 has *'jurisdiction to hear . . . such appeals . . . as may be prescribed by any law in force in the Islands'*. Such laws include the Grand Court Law and the Court of Appeal Law and, to the extent that the Public Management and Finance Law would or could be in conflict with such laws, I am of the opinion that the latter law could be held to be *ultra vires* the Constitution until all such laws were amended to bring them into conformity with the law under consideration. That law, as in the case of the Attorney-General's Constitutional functions, should be amended to provide that the Chief Justice be the chief officer, and that the potential conflict be avoided by the insertion of the new section 77A, paragraphs (b) and (c). In relation to the Complaints Commis-

sioner, section 49N of the Constitution states that *'a law may make provision for the office functions, jurisdiction and powers of a Complaints Commissioner'*. No such law has yet been enacted. When it is, care must be taken to ensure that it is not inconsistent with the law under consideration. In addition, to make it abundantly clear that the Constitutional provision is paramount, the new section 77A should include the proposed paragraph (d).

“5. 'Executive Council': Section 5 of the Constitution establishes an Executive Council for the Islands, section 14 specifies that the Governor or another person appointed by him, acting in his discretion, shall preside at meetings of the Council and, significantly, section 13(2) stipulates that *'No business shall be transacted at any meeting of Executive Council unless there are four members present besides the Governor or other Person Presiding'*. Reading these three provisions together, it is clear that, absent the presiding officer, Executive Council *simpliciter* has no power to carry out the functions set out in the Public Management and Finance Law and that those provisions are *ultra vires* the Constitution. The law needs to be amended by substituting 'Governor in Council' for 'Executive Council' throughout the law.

“Yours, I, Michael J. Bradley, Law Revision Commissioner”

That summarises the constitutional issues which were perceived to obtain in the view of the Law Revision Commissioner, who, as we also know, is the Overseas Territory's Constitutional advisor. It was no accident I sought his opinion, because I wished that any difficulty at a later date but I hope that my subsequent words would further explain that.

To summarise at the moment, Madam Speaker, the amendment now proposed to section 39(1) resolves some of these issues by enabling Ministers and Official Members to execute their mandate without the concern of an absence of control or excessive control by Chief Officers.

Continuing on the issue of respect for the Constitution, the second main concern is that provisions in the Law intended to respect the independence of the judiciary were removed at a date before the Bill came to this House.

The operative provisions to protect the independence of the judiciary were two-fold;

1. A statutory appropriation of the salaries and emoluments of the judges and magistrates; and
2. An expressed recognition that the Law was not to affect the independence of the judiciary.

That expressed recognition was contained in a former version of what became section 77 of the Law.

The removal of these, particularly the emoluments of the judges, gave possible executive control

over such matters and was in conflict with section 49I (5) of the Constitution. If I may just refer to section 49I (5)...Section 49I(5) was added in the 1993 amendment to the Constitution and it is to the following effect: **“49I (5) The emoluments and allowances of a judge of the Grand Court shall be prescribed by Law and shall be charged on the revenues of the Islands, and the emoluments and allowances of a judge shall not, without his consent be reduced during his continuance in office.”**

I do not plan to take up the time of the House or waste time on issues that are not in contention, but I do think that it is necessary for me to explain the procedure with this Law and give my reasons.

By removal of these provisions regarding the judiciary, the Law was not in accordance with the Constitution. That is my professional opinion, given in my professional capacity as principal legal advisor to Government. It was also not in accordance with the Constitution by referring to Executive Council, which, as I have explained for the reasons given by Mr. Bradley, has no power other than as Governor in Council. Again, I am quite willing and pleased to be able to table that matter.

As a result of these concerns, and because of concern for the independence of the judiciary, I referred those matters to the Chief Justice on 11 February 2002, and his reply of 4 March he has authorised me to share.

His view, in summary, was that the independence of the judiciary, and of the Attorney General's constitutional functions, would be severely impaired were the Bill to become Law in its present state. If I may, and again I am willing to table this, I wish to read the opinion provided.

The Speaker: Please proceed.

Hon. David F. Ballantyne: Thank you, Madam Speaker.

It is a letter dated 4 March 2002, and it is addressed:

“Dear Attorney General,

The Public Management and Finance Law 2001 (as passed).

“Thank you for your letter of 11 February 2002 bringing to my attention the Bill for the Public Management and Finance Law 2001 and for the enclosed advice of the Law Revision Commissioner, Mr. Bradley.

“I must register my concern immediately that the Bill could have received passage through the House without having been brought to my attention, notwithstanding the implications it carries for matters within Judicature and for the Administration of Justice.

“I share your hope that we ought to be able to avert the Constitutional difficulties identified by you and Mr. Bradley by means of an amending Bill. There are however broader concerns.

“Quite apart from the question of who the ‘Chief Officers’ should be for the Legal and Judicial Administrations; the Constitutional imperative of independence, both as it relates to the office of the Attorney-General (and those who work with him) and to the Judiciary would be severely impaired were the Bill to become law in its present state.

“The philosophy of accruals accounting (by which as I understand it, every service must be matched with the cost of providing it) is incompatible with the provision of constitutionally independent legal advice and prosecutorial decision-making.

“The requirements of justification of outputs as against expenditure; of performance specifications and reporting and of entering into performance agreements with the Executive to be monitored (and where deemed appropriate by the Executive, sanctioned for non-achievement, including by the withholding of funds - (Section 42) would be fundamentally contrary to Judicial Independence and therefore unconstitutional.

“I think one just has to ask the questions to see the fallacy: Which output criteria would apply to the Judicial Administration? How would one decide when they are not met? Who would decide?

“I could go into more detail in explaining why, from the point of view of the Judicial Administration, the Bill is objectionable for being unconstitutional; but I think the foregoing should clearly demonstrate the reasons for the concerns.

“Proposed Draft Amendments

“While I see the merits of the proposed Clause 3 of the Draft amendment Bill; I think it could be misconstrued as allowing, nonetheless, the practical application of the proposed law to the Judicial and Legal Administrations. It would then become a matter of what is meant by the law ‘not affecting the constitutional functions or independence of’ the two Administrations.

“I have attempted to explain above why, in the practical sense, the application of the Law to the Legal and Judicial Administrations would be unconstitutional.

“In the case of the Judicial Administration, your memorandum of 16 January 2002 makes the further point that the Grand Court Law provides in Section 4 that the Chief Justice shall be responsible for all matters arising in Judicature.

“It would be contrary to this statutory provision (which is designed to ensure the Independ-

ence of the Judiciary) and contrary to the Constitutional principle of Separation of Powers, to require that the Judicial Administration must justify its output to the Executive.

“Although this may not be what was ultimately intended by the adoption of the new approach to financial management in Government, that would be the result of requiring the Judicial Administration to comply with, for instance, sections 42, 43 and 44.

“For those reasons, I would advise the adoption of an amendment in terms of the earlier draft of Clause 77 but including the words ‘the support staff of the judiciary’ (better expressed as ‘The Judicial Administration’) and the Attorney General and his support staff (‘The Legal Administration’).

“Subsection 77(2) of the earlier draft should also be re-worded to include the Judicial Administration and the Legal Administration.

“2. I must also register my concerns that the merits of the earlier version of Clause 77 could have been discerned but the Bill was nonetheless passed without it; recognising instead, only the constitutional independence of the office of the Governor.

“This is even while the Bill goes to great lengths, in section 57, also to recognise the constitutional position of the Auditor General.

“Is one to assume that by the removal of the protective provisions of the earlier Clause 77, there is a positive view being held by the Executive that the Independence of the Judiciary is not to be recognised in the restructuring of the management of public finances?

“3. I note, as also requiring amendment, the provisions of section 11 (2) of the Bill in its omission of any reference to the ‘salaries, emoluments and allowances’ of the Chief Justice and Judges of the Grand Court; even while, again, it would make those of the Auditor General a permanent appropriation.

“This is notwithstanding that the positive in the Constitution is the reverse.

“See, in this regard section 49I(5) of the Constitution which, to the extent of any inconsistency with the Law, would of course prevail. For the avoidance of doubt, section 11 (2) of the Bill should nonetheless be made to comply on its face, with the Constitution.

“Please let me know if there is more I can do to ensure that matters are set right and please keep me advised at every step of developments.”

I have attached to that letter my letter to the Honourable Chief Justice, which I am willing to table also as part of this submission.

Madam Speaker, I have tried to outline to the House some of the concerns, and in the interest of time I am not going to further detail these. I would like now to advise the House of the attempts that were

made to solve the problems, having identified them in the way in which I have described. These efforts culminated in a Bill published in July 2002. Rather than matters languishing or being in limbo, in the period from receipt of the Bill—which in my office was the 26 October (although it was passed here on 26 September)—extensive efforts were made to identify the issues and to find solutions.

There was a summary provided to MLA’s in July, I believe, although I am not certain of the date. It was prepared by Mr. Bradley and it identified the concerns about the Law, the reasons for them and the proposed solutions. I hope I am correct in recollecting that. I believe that information was distributed at an informal meeting that was held with Members of the House.

To further demonstrate that the matter has been actively pursued over the entire period, a chronology of events has been prepared by First Legislative Counsel which refutes any lack of action. I do not wish to prolong this unnecessarily, but this chronology of events runs from 26 September 2001 to 6 November 2002. I believe, although I am conscious of time, this is an important issue. It would be appropriate to give an indication of what had occurred over that period, and I will give the date and the occurrence and I will table this paper also.

It is my understanding that the Bill itself was prepared as a Green Paper on 10 September and that it was passed in the course of two days.

I say this for no other reason but to make it clear. I was present only at the Committee Stage of that passage of that Bill and I am saying nothing, one way or the other about that, I am simply saying that is the factual position as I recall it having been overseas on official business.

I believe it is also right to say that the designation of the Deputy Financial Secretary, Deputy Chief Secretary and the Solicitor General were Committee Stage Amendments introduced on that morning, although I acknowledge the provisions that has existed in the Green Bill as not having included the Attorney General as a possible Chief Officer.

“The Public Management and Finance Law, 2001

Date	Action Taken
26 September 2001	Legislative Assembly passes the Public Management and Finance Bill, 2001.
4 October 2001	Clerk of the Legislative Assembly forwards Bill to Legislative Drafting Department for preparation of Bill for signature by Speaker and Clerk
19 October 2001	Legislative Drafting Department returns Bill to Clerk of the Legislative Assembly for signature by Speaker and Clerk
23 October 2001	Legislative Drafting Department forwards revised Bill to Clerk of the Legislative Assembly for signatures

Date	Action Taken
	of Speaker and Clerk
24 October 2001	Clerk of the Legislative Assembly returns Bill to Legislative Drafting Department for preparation of Legal Report by Attorney-General
26 October 2001	Legislative Drafting Department forwards draft Legal Report to Attorney-General for signature The Attorney-General submits written concerns relating to various Constitutional issues
11 December 2001	The Attorney-General meets with Law Revision Commissioner and First Legislative Counsel to discuss the Constitutional issues. (The Consultant to the Portfolio of Finance and Economics has returned to New Zealand and will be back in the Cayman Islands on 20 January, 2002.)

It might be noted that at this point, Madam Speaker, the consultant to the Portfolio of Finance and Economics had returned to New Zealand by that stage and was not to be back in the Cayman Islands until 20 January 2002.

16 January 2002	The Attorney-General seeks written advice from Law Revision Commissioner in respect of the Constitutional issues
17 January 2002	Law Revision Commissioner tenders to Attorney-General written advice confirming the Attorney-General's concerns in respect of the Constitutional issues
11 February 2002	The Attorney-General seeks the opinion of the Chief Justice in respect of the Constitutional issues affecting the Judiciary
25 February 2002	The Attorney-General meets with the Law Revision Commissioner, the Consultant to the Portfolio of Finance and Economics and First Legislative Counsel to discuss the Constitutional issues
28 February 2002	The Attorney-General meets with the Law Revision Commissioner, the Consultant to the Portfolio of Finance and Economics and First Legislative Counsel to discuss the Constitutional issues
2 March 2002	The Attorney-General meets with the Law Revision Commissioner, the Consultant to the Portfolio of Finance and Economics and First Legislative Counsel to discuss the Constitutional issues
4 March 2002	The Chief Justice tenders to the Attorney-General written advice confirming the Attorney-General's concerns in respect of the Constitutional issues affecting the Judiciary

Date	Action Taken
4 March 2002	The Public Management and Finance (Amendment) Bill, 2002 is drafted
6 March 2002	The Chairman of the FMI Legislation Sub Group issues instructions for amendment of the Public Management and Finance (Amendment) Bill, 2002
7 March 2002	The Chief Justice gives further advice in respect of the Constitutional issues affecting the Judiciary
8 March 2002	The Attorney-General discusses with the Law Revision Commissioner the question of 'carving out' the Attorney-General's constitutional functions from the requirements of the Public Management and Finance Law, and instructs further discussion of this issue between the Law Revision Commissioner and First Legislative Counsel
12 March 2002	The Auditor-General raises questions relating to his powers of investigation under the Public Management and Finance Law
13 March 2002	The Chairman of the FMI Legislation Sub Group issues instructions for further amendment of the Public Management and Finance (Amendment) Bill, 2002
13 March 2002	The Attorney-General meets with the Auditor-General and First Legislative Counsel to discuss the Auditor-General's powers of investigation under the Public Management and Finance Law
14 March 2002	The Financial Secretary issues instructions for further amendment of the Public Management and Finance (Amendment) Bill, 2002
10 April 2002	A revised draft of the Public Management and Finance (Amendment) Bill, 2002 is forwarded, for comments, to the Financial Secretary, the Chief Justice, Auditor-General, the Law Revision Commissioner, the Chairman of the FMI Legislation Sub Group and Senior Crown Counsel (Civil)
11 April 2002	The Chairman of the FMI Legislation Sub Group issues instructions for further amendment of the Public Management and Finance (Amendment) Bill, 2002
15 April 2002	The Chief Justice gives written comments on the Public Management and Finance (Amendment) Bill, 2002 as it relates to the Judiciary
2 May 2002	A revised draft of the Public Management and Finance (Amendment) Bill, 2002 is forwarded, for comments, to the Chief Justice and

Date	Action Taken
	the Chairman of the FMI Legislation Sub Group
6 May 2002	The Attorney-General instructs First Legislative Counsel to consult further with the Law Revision Commissioner
6 May 2002	A revised draft of the Public Management and Finance (Amendment) Bill, 2002 is forwarded to the Financial Secretary
7 May 2002	The Governor meets with Acting Attorney-General and First Legislative Counsel re status of the Public Management and Finance Law
8 May 2002	The Governor meets with Acting Attorney-General and First Legislative Counsel re status of the Public Management and Finance Law
9 May 2002	The Financial Secretary issues instructions for further amendment of the Public Management and Finance (Amendment) Bill, 2002
10 May 2002	Comments requested from the Solicitor General and the Law Revision Commissioner
10 May 2002	A revised draft of the Public Management and Finance (Amendment) Bill, 2002 is forwarded to the Financial Secretary
24 May 2002	The Attorney-General forwards, to the Financial Secretary, the Auditor-General and the Law Revision Commissioner, a draft of the Public Management and Finance (Amendment) Bill, 2002 with a request for outstanding concerns
31 May 2002	The Public Management and Finance (Amendment) Bill, 2002 is submitted to the Executive Council
18 June 2002	Approval given for introduction of the Public Management and Finance (Amendment) Bill, 2002 subject to certain matters
26 June 2002	The Public Management and Finance (Amendment) Bill, 2002 is forwarded to the Portfolio of Finance and Economics
10 July 2002	A draft of proposed Committee Stage amendments relating to the Public Management and Finance (Amendment) Bill, 2002, is forwarded to the Chief Justice
15 July 2002	A draft of proposed Committee Stage amendments relating to the Public Management and Finance (Amendment) Bill, 2002, is forwarded to the Financial Secretary
26 July 2002	Response received from the Chief Justice in relation to proposed Committee Stage amendments relating to the Public Management and Finance (Amendment) Bill, 2002

Date	Action Taken
4 September 2002	The Governor meets with the Attorney-General, the Financial Secretary, the Chairman of the FMI Legislation Sub Group, the First Legislative Counsel and the Consultant to the Portfolio of Finance and Economics in relation to the proposed Committee Stage amendments relating to the Public Management and Finance (Amendment) Bill, 2002
29 September 2002	The proposed Committee Stage amendments relating to the Public Management and Finance (Amendment) Bill, 2002 are revised
11 October 2002	The proposed Committee Stage amendments relating to the Public Management and Finance (Amendment) Bill, 2002 are further revised
18 October 2002	The Attorney-General meets with the Chairman of the FMI Legislation Sub Group and the First Legislative Counsel to discuss the proposed Committee Stage amendments relating to the Public Management and Finance (Amendment) Bill, 2002
21 October 2002	The proposed Committee Stage amendments relating to the Public Management and Finance (Amendment) Bill, 2002 are further revised
25 October 2002	The proposed Committee Stage amendments relating to the Public Management and Finance (Amendment) Bill, 2002 are further revised
30 October 2002	The proposed Committee Stage amendments relating to the Public Management and Finance (Amendment) Bill, 2002 are further revised
31 October 2002	The proposed Committee Stage amendments relating to the Public Management and Finance (Amendment) Bill, 2002 are further revised
4 November 2002	The Governor assents to the Public Management and Finance Law, 2001
6 November 2002	The Public Management and Finance Law, 2001 is published in the Gazette"

That is a detailed chronology of events in representing attempts to solve the problem. I hope that it indicates that the matter was not simply allowed to rest but actively sought were the solutions to what is a difficult and complex matter. Just how difficult it is, Madam Speaker, is that until Monday of this week the last barrier to full Ministerial authority over Government finances was removed while respecting the needs for chief officers to have control over inputs.

I think all here regard that solution as an improvement, and it removes any potential for inconsistency with the intentions of the Constitution for the exercise of executive power.

I have attached to this paper the commentary, which I mentioned earlier, prepared by Mr. Bradley, which I believe was made available to Members of the House around the middle of the year, although I am uncertain of the precise date.

Madam Speaker, I would like now to address alternative courses of action and their consequences. I too have had adequate time to reflect on this entire matter and wish to be completely clear and transparent in the explanations that I have given.

One option available to me would have been to sign off on the legal report without qualification. Rather like signing off, you might think, on deficient accounts without mention or note in the legal sense. In my view, that would have been unprofessional and it would have been a failure to fulfil the responsibility which is placed on the person holding the position I hold, for giving legal advice.

Another option would have been to qualify the legal report with reference to the perceived inconsistencies with the Constitution, but this would have occasioned further consequences. If the Governor assented he would have had to take the view that in the face of advice, including that of the Overseas Territories Department of Constitution Advisor, in another guise as Law Revision Commissioner, it was not inconsistent with the Constitution. If he took the view that it was inconsistent with the Constitution, he would, by section 39(2)(a) of the Constitution, be required to have referred the Bill to Her Majesty's Government unless a Secretary of State authorised him to assent. I see some dissent from that, so I will refer to section 39(2) of the Constitution to make it clear.

Section 39 says: **"39. (1) A Bill shall not become a Law until—**

- (a) the Governor has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of his assent; or**
- (b) Her Majesty has given her assent to it through a Secretary of State and the Governor has signified Her assent by proclamation.**

"(2) When a Bill is presented to the Governor for his assent, he shall, subject to the provisions of this Constitution and of any instructions addressed to him under Her Majesty's signed manual and signet or through a Secretary of State, declare that he assents, or refuses to assent, to it, or that he reserves the Bill for the signification of Her Majesty's pleasure:"

Here is the relevant part, **"Provided that the Governor shall reserve for the signification of Her Majesty's pleasure—**

- (a) any Bill which is in any way repugnant to, or inconsistent with, the provisions of the Constitution; and**
- (b) any Bill which determines or regulates the privileges, immunities or powers of the Assembly or of its members;**

unless he has been authorised by a Secretary of State to assent to it."

So if the Governor took the view that the Bill was inconsistent with the Constitution, unless he was authorised by a Secretary of State to assent to it, it is my view that he would have required to reserve it for the signification of Her Majesty's pleasure. However, I have to mention the other possibility that was open to him. I did say there were various consequences possible.

If he had reserved the Bill for the signification of Her Majesty's pleasure, Her Majesty's Government would no doubt have taken their constitutional advisor's views into account. I sought Mr. Bradley's views and those of the Chief Justice to try to avoid that possibility.

The other avenue to the Governor under section 40 of the Constitution would be to refer the Bill back to the Legislative Assembly, which Members have referred to as a possibility with any amendments that he recommended. Either way it is likely that the matter would have returned to the Legislative Assembly.

By acting in the way described, I sought to avoid embarrassment to colleagues in Government and in the Legislative Assembly and to the Governor by, as it were, trying to deal with the problems within Government. However, I have to say that on 3 July I came to the view that I should not hold up the consideration of the assent and I drafted a letter to the Governor. Having had the opportunity of discussing that, I am quite willing to read the letter, if you wish, and I think it might be helpful if I table it.

I do not wish to cause anyone any embarrassment at this stage, nor will I do so. I will not read the letter in its entirety, but I pointed out that the Law was passed on 26 September when it was submitted to my office. On review of the Law I came to have reservations about whether aspects of the Law were in accordance with the Constitution, and I raised these concerns with First Legislative Counsel and Mr. Bradley in his capacity as Law Revision Commissioner. Subsequently, I sought the view of the Chief Justice and attached copies of the correspondence.

As a result, I considered myself unable to express an opinion in a legal report to the effect that the Governor's consent could properly be given. The solution advocated was an amending Bill, which has recently been approved by Executive Council for submission to the Legislative Assembly. Despite my continued reservations, it does not appear that my opinion, albeit supported by opinions from Mr. Bradley and the Chief Justice should further delay consideration of assent. I pointed out the existence of the constitutional provisions and the absence, other than by convention, of the legal report mechanism.

I also stated that, in my opinion, the Law was *ultra vires* the Constitution in referring to Executive Council rather than Governor in Council, and was inconsistent with the Constitution by not including, as

statutory appropriations, the salaries and emoluments of the judges of the Grand Court. The Law also had the potential for further inconsistency with the Constitution to the extent that its operation may be repugnant to the independence of the Judiciary and the Constitutional independence of the Attorney General.

These issues and the reasons for them and proposed solutions were set out in the two-paged commentary prepared at my request by Mr. Bradley.

I mentioned this not to say, that letter was not sent. That was my position on the matter, and I want the House to understand that was my position and these were the reasons as to why I took that position. In the end I was asked to continue to try to resolve the matter and I have done so.

By taking the course I did, I tried to act in the best interest of the Cayman Islands and to avoid further difficulties and the creation, in my view, of a bad precedent. I think it is an extremely bad precedent to have legislation return, although I accept it is not desirable to have such a long delay in the implementation of a law passed by this House. The bad precedent here is a bill is either returned by the Governor or refused assent by Her Majesty's Government. Therefore, we have retained control over the issue. Even if it has proved hard to manage, the outcome, in my opinion, should be worthwhile.

In the meantime, it may be noted that while it is desirable to bring laws into operation, which I support, as soon as practical, it is also desirable to avoid constitutional difficulties. This will have been achieved before the Law was needed in practice.

Madam Speaker, if I may move now to try and deal with some of the comments that have been made in the debate so far, with a view to ascertaining if they may be addressed. I need to refer to my notes of what occurred in the debate so far. I will try to do justice to the submissions.

I will not dwell on the comments regarding the original Law. I think they were well rehearsed by the First Elected Member for George Town. He made the point, however in his—

[Inaudible interjection by Member of the House]

Hon. David F. Ballantyne: I beg you pardon. I am using the word, perhaps, in a slightly unusual sense.

He did say that even in relation to the Governor, the Law does not say that matters should not be reported. One of the reasons why I am speaking now is to try to clear up any misunderstanding that there might be regarding the intention of the amendments as opposed to the way in which they may have been interpreted. I agree with that. I think he said, 'The accountability that will be required is most welcome. None of us is excluded from that process'. I agree with that also. Then he began to look at the amendments, and there was no objection to permanent appropriation for salaries of judges, as I understand it.

There was some difficulty over the issue of Governor perhaps signing on behalf of Governor in Council, although I think that can be addressed. What I have to say subsequently will obviate that necessity. The Governor can sign contracts on behalf of Government, can enter into arrangements. Whether it is appropriate is perhaps another matter.

I noted the Honourable Member saying it was meant that no one could prevent the Attorney General from doing what he is supposed to do. There is a post which must have some kind of checks and balances with regard to what it is costing to fund, and I agree with that also. I take the opportunity of saying publicly that the amendment in relation to section 77A was not intended to release the Legal Portfolio from compliance with the Law. It was intended to address a specific issue, which I will come to.

What it has sought to do, and perhaps has not clearly said, was to say that it is inappropriate to have performance agreements in relation to certain constitutional functions. That does not mean that it is inappropriate to cost those outputs, include them in a performance agreement and have them go through the entirety of the Public Management and Finance process. I understand, and I am trying to make it plain, that there was no intention of carving out the Legal Portfolio. The only carve-out, if you like, is this: under the Constitution the Attorney General has certain functions. He is accountable for those functions; he is accountable to the Executive Council for legal advice; and he is accountable to the Governor, ultimately, for his prosecutorial decisions, if not to the courts. I say that because there is a power of removal in the Constitution of the Attorney General, which we are all familiar with, which can be exercised either because he is unwell or unsound of mind, or because he is not doing his job properly. So I am here to say that the Attorney General is accountable for those functions under the Constitution.

I would also advise the House that the Attorney General is a controlling officer for finance under the existing Law. So the concept, possibly, of being chief officer is not quite as alien and would not involve substantial difference in control of funds than presently exists.

I would further point out that the Attorney General, in relation to that activity, has no access to Finance Committee. So he is at something, you may think, of as a disadvantage in relation to the controller funds. I do not mean to reopen that issue which was settled here a long time ago, I am just making the observation.

If I may go on to deal with the comments by the Honourable Member for East End as best as I can, he said that the Attorney General had acted *ultra vires* by not passing the Law on. If I felt that I was acting out with my powers and responsibilities I would not so act, but I appreciate he is entitled to his opinion. I do not believe that I acted *ultra vires*, but what I do regret, and I have said it publicly, is the length of time

it has taken to get to this juncture in dealing with these issues. Nevertheless, I hope that you will appreciate that with the efforts that I have described there was no lack of effort in order to engage that solution.

He did take issue with the length of time that the law had been around. I am very unhappy about that also. I am equally unhappy about the way in which it appears to have become Law in the first place in the sense that the matters to which I have drawn attention were not addressed.

He also said, in fairness to him, that he was not prepared—if I have him noted correctly—to take any powers from the Attorney General, although he offered the comment that he would prefer to see a Director of Public Prosecution (DPP) which is an issue for the future. I think the crux of this issue, if I understand it, is the lack of enthusiasm—if I can perhaps put it at its lowest—for the idea that the Attorney General should be the chief officer of the Legal Portfolio. Well, I think I understand the concerns but I have to say that, as a controlling officer at the moment and as head of the Legal Portfolio, I do not particularly see the difficulty. Regardless, I respect the fact that the proposal is different from the other arrangements with the other Portfolios.

It was said, and I want to deal with the criticisms, if we have one and the same person performing the two duties, the point is that you would have control. Well, that is quite true. You would have control. On the other hand, if I have responsibilities to discharge, I wish to have some control. If it is wrong to have financial control then I will acknowledge that. I think the difference, however, is to have control of the outputs as opposed to control of the inputs. If you have the same individual doing two jobs, then what control do you have over the money? Well, my issue at an earlier stage, Madam Speaker, was that if you have someone else controlling the money you may be unable to discharge your responsibilities. However, I believe that issue has now been addressed in the amendment to section 39(1).

There was mention of the White Paper, that well-known document. I do not desire to comment on UK and Cayman Islands relations other than to say that I accept the need for sound, financial administration. That comes from a lawyer who is not noted for necessarily being good with numbers, not necessarily being good with words either. However, I am subscribing to the notion of accountability and, really, that is at the heart of what I want to say—accountability for all of us for our respective functions under the Law and in the appropriate way.

I am moving on so that I do not miss anything significant in the submission.

There was argument about, why not the Solicitor General. That was in the original Law; I agree it was in the original Law. I have tried to explain that it is not a personal issue, and it is not a case of preferring any person as an individual. I too will not personalise this debate because I think that would be a disservice

to the people of this country. I think the issues are issues of principle and substance and need to be addressed in that way. So it is not, as I have said, a personal issue. Yes it would be possible for the Governor, in exercise of his responsibility for the public service, to reorganise the Legal Portfolio, or any portfolio for that matter, and to extend the management responsibilities of any of its members. I would trust that he would do that in consultation with the Attorney General, but he has the ability to do that regardless.

It is also true that the Solicitor General acts in my absence, and I am very confident in his ability to do that and to discharge those responsibilities. However, if I may say, my Honourable colleague, the First Official Member, also acts for the Governor and I am sure that the Governor has every confidence in his ability to do that. That does not necessarily mean that he should have management responsibilities for the Governor's office. That aside, I am not making an issue of this, I am just making the point that to have someone act for you does not necessarily mean management responsibilities should follow. I hope my Honourable colleague does not mind me making reference to his acting.

What I am concerned about is the remark that all of this is convoluting the whole process. I do not think that we should be in that business; I do not think that we should be doing that at all. I think what the Law should be is, on its face, clear as what it is seeking to accomplish and how it accomplishes it. It is not enough, in my view, just to put a little paragraph in that says '*nothing in this Law effects the constitutional independence of so and so*' because that really does not tell you how that is going to happen. I think the Law should say how that is going to happen and there are ways in which that can be achieved.

I do not want to be more powerful than I am; I have enough responsibility as it is. Although the Attorney General has a number of hats to wear, the issue is whether he has a conflict of interest in relation to the exercise of any of those responsibilities. I say that not as an individual but as the occupier of the position.

I can only say on the issue, Madam Speaker, of giving legal advice to the Government and prosecutions, for reasons that I will mention, has never caused a difficulty. Accountability for the prosecution process is not to Executive Council, and that is one of the reasons why a performance agreement in relation to prosecutions with Executive Council is not appropriate. Yes they have to set the limits on the money. Yes it has to be accounted for on an accruals basis. Yes it has to come to the Legislative Assembly and yes the Attorney General can be grilled *ad infinitum*, if that were the wish of the House, on how those monies were expended to be sure that they were properly expended. That is my understanding of accountability and how the Law is meant to work.

I also acknowledge what the Honourable Member for East End said about the Law not capable of being operated and the Government, perhaps, hav-

ing a quandary. However, the quandary really is how to resolve this difficult question of paying respect to the Constitution and having a working Law that is not too different from any other Portfolio. I hope I have it figured out, Madam Speaker.

I want to avoid conflicts between Executive Council and the AG and Finance, and I noted the question about summoning of the papers by the Auditor General. In general terms, my answer to that would be if they related to legal advice I would assert a claim of legal, professional privilege in relation to such papers and I would make that position plain to the court, if that were an exercise of the legal advisory function. So I would not have a difficulty in that regard, subject to this.

I noted the final comments, if I may conclude on trying to deal with these issues and explain how I think they can be addressed for transparency, chain of command and accountability. So we come back to the word "accountability" which the First Elected Member for George Town started off with.

My view of the position of the Attorney General may not matter in years to come, but at the moment it is that the Attorney General is the provider of certain services to Executive Council.

The Speaker: Honourable Member, you have 55 minutes remaining.

Hon. David F. Ballantyne: Thank you, Madam Speaker. I hope I may not need them all.

I doubt whether anyone is going to accede any time to me on this issue.

The role of principal legal advisor cannot be delegated; it is there in the Constitution. No one is suggesting that, and I appreciate that. There is also a question of management responsibility and that may alter in the future. It may alter sooner rather than later. It may alter with changes to the Constitution. I have to deal with the Constitution as it presently is.

The amendment to section 39 removes one of the objections that was not just an issue for the Attorney, but also for Members of Government. The ability to alter a performance agreement in the course of a year denies the argument that there can be a fetter on the discretion of either Ministers or Official Members in the exercise of certain functions. So it eases the way, in my opinion, for looking at the other issue which we were forced into because of the existence of... Well, I take the view that we were forced into it. It was not the only solution, but one of them was to say that if you are the chief officer you could not have your own discretion fettered. I want to say it is not a job I want personally, but what I want has got nothing to do with this. It is what the Law requires in order to discharge the functions of the law properly.

What has to happen, in my opinion, is that the designation of chief officer requires to conform with the Constitution. Even if you designate a chief officer who has responsibilities for all the outputs of the Legal

Portfolio, you are still left with the Attorney General accountable to Executive Council for the legal advice and responsible for the control of prosecutions. You cannot do anything about whether we wanted to other than change the Constitution.

I have said, Madam Speaker, there is no problem with specifying outputs for legal advice and for prosecutions and for having Executive Council control the financing of them. It is the substance of the exercise of the powers that is, for me, the issue. It breaks down quite well subject to the explanation that I am about to proffer to the House.

The way in which the responsibilities are carried out is defined by virtue of the Constitution. Certainly in relation to prosecution it is quite clear as to what is expected. To include control by Executive Council over prosecution we all know is not what the Law intends and is not designed to do. The provision of independent, impartial legal advice needs to be obtained at the discretion, within budgetary limits, of the party responsible for giving that legal advice.

What needs to be attempted is to avoid fettering those discretions while having the individuals and the Portfolio fully accountable. That is, as I understand, the problem. The only carve-out for these functions is that the way in which those responsibilities are exercised should not be subject to Executive Council's control, not the amount of money and not the accounting for them; the amounts of money for the functions and the accounting for them on an accruals basis is a matter for Executive Council and is a matter for the Legislative Assembly. Otherwise, we would have a preposterous situation where, as I believe the First Elected Member for George Town said, the Attorney General would have an unlimited budget. That would not be sensible; it would not be consistent with sound financial administration. It might be nice but it is not proper. I am quite willing to submit to the financial disciplines and I do so as a controlling officer at the present time.

If this is an appropriate point at which to mention, it is proposed to put forward an amendment by means of Committee Stage amendments to the amending Bill. I realise that Members will not have received this information at this point in time, but to try to address the concerns that have been raised, and in the absence of prior explanations, they are understandable. It is thought that a committee-stage amendment may do justice to both the constitutional issues and the desirability for uniformity in the Law. I will only describe the effect of these committee-stage amendments if appropriate, Madam Speaker. I do not wish to anticipate them, but I do wish to outline what the consequence would be. Unless you feel, Madam Speaker, it would be more appropriate to occasion these to be circulated, if this is the right time, in order that Members would have the opportunity of looking at them while I was making any relevant submission.

The Speaker: Honourable Second Official Member, I need to have an opportunity to have full sight of the amendments which have been placed on my desk, but I have not had the opportunity because of listening to the proceedings.

What I propose to do at this time is take the afternoon break to peruse it, and then it could be circulated to enable you to discuss it at that stage.

Before Members leave, I also believe that it is the understanding that the House wishes to sit beyond 4.30 pm.

Hon. W. McKeever Bush: Until 6 to try and get this out of the way.

Proceedings suspended at 4.19 pm

Proceedings resumed at 4.45 pm

The Speaker: Please be seated. Proceedings are resumed.

The continuation of the debate by the Honourable Second Official Member.

Hon. David F. Ballantyne: Thank you, Madam Speaker. I am just making arrangements for the copying of the papers which are required to be tabled and then I will move the tabling of them.

The Speaker: That is fine.

Before you commence your debate I shall call on the Leader of Government to move the suspension of Standing Order 10(2) to allow business to continue beyond the hour of 4.30.

Suspension of Standing Order 10(2)

Hon. W. McKeever Bush: Madam Speaker, I move for the suspension of Standing Order 10(2) in order to continue business after 4.30, until 6 pm or if business finishes before, whichever.

The Speaker: The question is that Standing Order 10(2) be suspended to allow the House to continue its business this afternoon.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: Thank you, Madam Speaker. I understand that the proposed Committee Stage amendment No. 2 has been circulated and is in

the possession of all Members. I wonder if it would be appropriate at this point to address the content of that, or is that procedurally competent.

The Speaker: Honourable Second Official Member, you may refer, generally, without dealing with the merits or demerits, as they will be introduced for the first time in Committee Stage.

Hon. David F. Ballantyne: Thank you, Madam Speaker.

Dealing with the merits then, this address is the contention regarding the issue of Chief Officer in relation to the Portfolio of Legal Affairs and would provide that, in the case of the Portfolio of Legal Affairs, the chief officer would be such public officer in the portfolio as may be designated by the Governor. That public officer might be the Solicitor General, it might be another Official, but it could not be the Attorney General. The definition of “**public officer**” means **any person employed in the civil service but does not include any member of the Governor in Council or Legislative Assembly.**” So it would remove some of the objections that were voiced in that regard.

There are some more details concerning reporting by the Auditor General which I do not propose to dwell on because I do not believe that they would be contentious. There are further provisions about the right of access of the Auditor General to information held by any public officer by repealing the existing provision and inserting new subsections which may require further explanations or discussion but not by me in my contribution, Madam Speaker.

More importantly, a proposed new section, 77A.(2), would be in furtherance of the provisions regarding reconciling a constitutional position of the Attorney General, with the requirement of the Public Management and Finance Law. The proposal is in relation to outputs that relate to Constitutional functions of the Attorney General, the specifications contained in section 42(2)(a) (i) to (iv) would be a description of the output; the quantity of the output; the quality of the output and the delivery dates for the outputs. Those would be the subjects of agreement with the Attorney General, who, in turn, would be accountable for performance under the Constitution as described. The financial details in the same section in relation to those outputs would be the subject of agreement with Executive Council so that the price to be paid for each output, the evidence of delivery and the payment schedule, all the financial details, would be subject to agreement by Governor in Council. There would be no lack of financial accountability, but the substance for the substantive performance of duties for which the Constitution gives the Attorney primary responsibility would be to the Attorney, who, in turn, would be responsible under the existing constitutional arrangements. In relation to all other outputs of the Portfolio Law School, Legislative Drafting, they would simply be agreed with Executive Council.

It is the position of the present incumbent of the position of Attorney General that these would reconcile the possible inconsistencies between the constitutional position and the needs of the Public Management and Finance Law. They may be a little wordy, I do appreciate that, but if they serve to clarify the responsibilities and make it clear how the Law will operate to achieve its purposes and not impinge on the constitutional functions, then it will serve a good purpose.

At this point, Madam Speaker, I am subject to any questions which may arise and any further contribution I may make. I believe that this is a reasonable compromise and a good solution to what is a very difficult question of interlinking provisions in the Law and making sure that they work in a manner that is compatible with the Constitution.

I do not wish to take up further time of the House and I want to thank Members for their forbearance in what has been quite a detailed discussion. Once I receive the documents back from copying, if I may, I will make a motion at that point to table the documents to which I made reference in my submission.

The Speaker: Perhaps, Second Official Member, if we could have the original documents tabled and then the photocopying could be done. Otherwise, it will be awkward to interrupt another Member that is speaking.

Perhaps if Madam Clerk could organise that for the Chamber.

Hon. David F. Ballantyne: Yes, I left them with staff in the front office, and if they could be recovered I will happily move the tabling of them as soon as I have them back.

[Pause]

The Speaker: The Serjeant has gone to retrieve the relevant copies and I beg the indulgence of the House until he so returns.

[Pause]

Hon. David F. Ballantyne: I beg leave to table the following documents in relation to the submission of my contribution earlier. First of all are working notes following receipt of preparation of the legal report, memo of 11 December 2001, letter of 16 January 2002 to Mr. Bradley, letter from Mr. Bradley of 17 January, letter of 11 February to the Chief Justice, letter of 4 March from the Chief Justice, a draft letter unsent of 3 July 2002, and the chronology of events in relation to the Law to which I have made reference.

The Speaker: So ordered.

Hon. David F. Ballantyne: I am obliged. Thank you.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak?

The Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

A great deal has been said thus far in relation to this Public Management and Finance (Amendment) Bill, 2002. Having had the opportunity now to review the proposed Committee Stage amendments, most of the concerns raised by my colleagues, the First Elected Member for George Town and the Elected Member for East End, appear to have been addressed.

Madam Speaker, it may be recalled that the principal objections to the proposed amendments were the provision outlined in clause 8 of the Amendment Bill, which would have introduced a new section 77A, and in particular, the subsection 77A(2). This section would provide that the provisions of this Law would apply to the Portfolio of Legal Affairs, except to the outputs produced by the Portfolio relating to the functions specified in the Constitution. The provisions shall be specified in the performance agreement for the Portfolio but shall not be subject to agreement with the Governor in Council in accordance with section 42.

That appears to have been satisfactorily addressed in the Committee Stage Amendment No. 2. Even though what is proposed is, in my view, unnecessarily wordy, I believe that it has the required effect, or the hoped effect of the Parliamentary Opposition in that if that amendment is adopted it will have the effect of making the provisions of the Public Management Law, that is, the substantive Law applicable to the Portfolio of Legal Affairs in a way that does not offend the Constitutional functions and independence of the Attorney General. Madam Speaker, on behalf of the Parliamentary Opposition, I believe we are satisfied that it does have that effect.

The other major matter with which we took issue was the provision proposed in clause 6 of the amending Bill, which would amend section 42(4)(b) to permit the Attorney General to serve as chief officer. That, Madam Speaker, has also apparently been satisfactorily addressed in the Committee Stage Amendment No. 2. As proposed in the case of the Portfolio of Legal Affairs, the chief officer will be such public officer in that Portfolio as may be designated by the Governor. So, Madam Speaker, it appears that those principal objections to the texts of the Public Management Finance (Amendment) Bill, 2001 have been addressed.

I wish, however, to deal with a number of other matters, some raised by my Honourable colleagues on this side of the House, others raised by the Honourable Second Official Member in his contribution. There are, in my respectful view, some fundamental errors that have been made in dealing with this

situation which have created considerable confusion, harassment and delay in resolving these issues.

All Members who spoke before me referred to the issue of this Bill having only received the assent of His Excellency the Governor on Monday, 4 November, shortly before the earlier amending Bill that was published on the 15 July was withdrawn by the Honourable Third Official Member and a new amending Bill was presented to this Honourable House.

Members will recall that on Monday afternoon when that was done I raised a constitutional objection to the proposed introduction of that Bill. My objection was that it was unconstitutional for the Legislative Assembly to proceed upon a bill to amend an earlier bill which had been passed by the Legislative Assembly, but which had not been assented to by the Governor, or which had not been returned to the Legislative Assembly by the Governor pursuant to section 40 of the Constitution.

It was at that point that the Honourable Second Official Member responded and indicated to us for the first time that the Bill had, in fact, received the assent of His Excellency the Governor. While he did not concede that my point had merit, he nevertheless said it was irrelevant, even though he may not have used that particular word, because the Bill had, in any event, been assented to.

How we arrive at the situation that we are currently at, I believe, bares some further examination because I believe that if the constitutional prescription had been followed in relation to the conduct of a Bill following its passage in this Honourable House, we might well not have gone through this somewhat protracted and, certainly, quite uncomfortable past two days. You see, Madam Speaker, constitutionality and constitutional independence are nice-sounding buzz words which are prayed in aid often when one has objections to the way matters are being proceeded with, or even in relation, to be direct and to the point, when there are concerns about provisions in a bill. However, we are all creatures of the Constitution, those of us who inhabit these hallowed halls, and I often believe that it is forgotten that the Members of the Legislative Assembly, and the Legislative Assembly itself, are too a constitutional creature and must be respected and allowed to exercise its functions properly under the Constitution.

Standing Order 56 of the Legislative Assembly Standing Orders 1997 (Revision) provides that: **"56. The Clerk shall have custody of all bills passed by the House and shall, so soon as may be, present them to the Governor for his assent."**

Section 40 of the Constitution provides: **"40. The Governor may return to the Assembly any Bill presented to him for his assent, transmitting therewith any amendments which he may recommend, and the Assembly shall deal with such recommendations."**

My contention is that there is no constitutional provision or Standing Order which entitles the Hon-

ourable Third Official Member, who presented this Bill, or anybody else for that matter, to seize custody of a past bill from the Clerk or to intervene in the transmission of the Bill to the Governor for his assent, or for him to return it to the Legislative Assembly for amendment with recommendations. That is the constitutionally prescribed procedure which is to be followed.

We talk often, and the Second Official Member is fond of referring to his constitutional independence and his constitutional functions and respect for the Constitution. However, we must all observe and respect the Constitution, not just the parts which suit our particular purpose on a particular day.

My charge was that the procedure of seeking to amend a bill which had not yet received His Excellency's assent was unconstitutional. We have come to understand that that submission of mine did not have a basis, in fact, because just earlier that day the Bill had been assented to. However, in responding to my charge the Honourable Second Official Member made a most startling revelation, which was that for the past thirteen months or so the Bill had never been transmitted to the Governor for his assent. It had leaned in a state of suspended animation in his office following its passage by this Honourable House.

In fairness to the Honourable Second Official Member, he has explained in considerable detail the ongoing efforts since then addressing concerns he and others had, including the Honourable Chief Justice and the Law Revision Commissioner, Mr. Michael Bradley. So it was not simply a question that nothing was being done, and I am not seeking to say that is the case. I accept every word he says about what was being done; that is not the thrust of the argument I seek to make at all.

My point is the procedure provided for in the Constitution was simply not followed. It may well have been, and I accept that, with the very best intentions in the world, but the Constitution requires that the Bill which is passed by this Legislative Assembly is given into the custody of the Clerk and that the Clerk transmits it to the Governor for his assent. At that point, the Governor can decide to do a number of things:

He can decide to assent or not assent to the Bill. If he does not assent to the Bill, the Constitution requires that he sends it back to us with recommendations. It is at that point that we, the Members of the Legislative Assembly, decide what we do about those proposed recommendations.

We can never compel His Excellency to assent to something to which he does not wish to assent for one reason or another. Whether the issue or the concern is about its constitutionality or about some other matter which Her Majesty's Government has concerns about, no one is entitled to intervene and intercept that Bill and prevent its onward transmission to His Excellency for that assent. That is what transpired in this case, and my submission is that that well meaning or well-intentioned interception is largely the

reason why it has taken this long and why we have gone through such aggravation to achieve the amendments now being proposed.

Madam Speaker, the second remarkable thing about the revelation of the Honourable Second Official Member is this: if we look back at the process which resulted in the passage of the Public Management and Finance Law, 2001 on the 26 September 2001, we will see this that the Bill came down to the Legislative Assembly as a green bill in the usual way. That signifies to us that that Bill, and the contents thereof, has been agreed by Executive Council which has, as its president, His Excellency the Governor and also includes the Attorney General.

Executive Council has approved the Bill for presentation to the Legislative Assembly. It comes here. I know I heard the Honourable Second Official Member say that it was only debated for two days and that is quite true. There were 22 amendments to that Bill at Committee Stage as a result of the debate which took place in this Legislative Assembly on that Bill. So any inference that somehow this Bill slipped through the cracks with its unconstitutional provisions, as has been alleged, is entirely misplaced.

This Bill received as much scrutiny and as much debate on the floor of this House as any other bill that has come this way since I have had the fortune to be the Second Elected Member for George Town.

Executive Council approves it; the Third Official Member presents it; it is debated; it receives unanimous support of this Legislative Assembly, obviously including the Government, they promoted it. The Government includes the Attorney General. It passes Second Reading; it goes to Committee; 22 Committee Stage amendments are made; the matter is reported back to the House; it receives its Third Reading and is passed. Then the process to which I referred just a bit earlier should have been followed.

Now, Madam Speaker, the Attorney General has said that he personally was not here at the time that the Public Management and Finance Bill, 2001 was passed.

The Speaker: Second Official Member, will you please refer to the terminology as the Honourable Second Official Member as opposed to the Attorney General?

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

Madam Speaker, might I respectfully remind you that I am not the Second Official Member.

The Speaker: Yet.

[Laughter]

The Speaker: Please proceed.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. A moment of levity does us all good.

So we get to this situation now where, as I said, the Honourable Second Official Member, in the personage that sits here today, was not sitting in the chair as the Second Official Member at that point. However, for the purposes of my argument, that is neither here nor there. I have no beef with the person; my beef is with the process.

Wearing the hat of the Attorney General, constitutionally, the principal legal advisor to the Government, the Honourable Second Official Member receives the Bill, albeit, in my submission, unconstitutionally. He then proceeds to review the Bill and discerns that there are constitutional objections to certain provisions in the Bill.

The Honourable Second Official Member has explained that there is a convention; that bills go to His Excellency for assent accompanied by a report about the suitability for assent which has, up to now, been made by the Attorney General. Now, Madam Speaker, there is no constitutional provision, and the Honourable Second Official Member has conceded that it lays out any such procedure. However, the Honourable Second Official Member also says that this is done because of the Attorney General's role as principal legal advisor to the Governor. Let me clarify that point.

The Attorney General is not the principal legal advisor to the Governor by virtue of any provision in the Cayman Islands Constitution Order 1972 as amended. The Attorney General is the principal legal advisor to the Government.

The Government comprises of the Governor and the Members of Executive Council, which include the Elected Ministers and the four Official Members. There is no separate constitutional responsibility vested in the Attorney General as principal legal advisor, or even legal advisor to the Governor.

You see, Madam Speaker, what has transpired here is that we have, on the one hand, the Attorney General—and I use that term deliberately because I am not specifically referring to the Second Official Member, I am talking about the Attorney General. We have the Attorney General, in one capacity, as principal legal advisor to Executive Council, apparently advising Executive Council of the appropriateness of the Public Management and Finance Bill 2001. I find it hard to concede that if Executive Council had been advised that there were constitutional objections to the Bill they were proposing to bring to the Legislative Assembly that they would have brought it.

Even more compelling than that is that if the Attorney General believes that there were constitutional objections to certain provisions in the Bill, the acting Second Official, sitting across the floor as a Member of the Government, would have been able to support the Bill in its passage through this Legislative Assembly. We have this quite remarkable situation

where the Attorney General, as principal legal advisor to Government, appears to have advised on the constitutionality of the Public Management and Finance Bill, 2001 which received passage on the 26 September that same year.

Just to make it absolutely clear, Madam Speaker, when I talk about the Attorney General I am not speaking necessarily about the individual sitting in the chair. I am speaking of the office. It is the office in which I am interested, not who inhabits that office. It does not matter. The office is a creation of the Constitution and it is that with which I am dealing.

In that incarnation as principal legal advisor to the Government, the office appears to have advised about the appropriateness of the Bill. In that same incarnation, that office attends the Legislative Assembly and supports the passage of that Bill. Yet in another incarnation which is not a constitutional one, that is, as advisor to the Governor, the office of the Attorney General has determined that certain provisions in that self-same bill are unconstitutional. That, Madam Speaker, is quite a dilemma.

There is another dilemma, Madam Speaker. The Bill that the Honourable Second Official Member outlined the constitutional objections to, was assented to by His Excellency the Governor on Monday, 4 November without amendment or any changes. My question is, What happened to remove those fundamental objections to assent? If the Bill should not be assented to, it should not be assented to. The mere fact that you are going to assent to it and propose new amendments to it almost, simultaneously, is, in my respectful view, neither here nor there. This is a matter of principle. You are not going to assent to a Bill because of its unconstitutionality. You could not assent to it for more than thirteen months because of those grave objections.

I hasten to add that I am not for one moment seeking to derail what happened here because we are all of the view that most of the proposed amendments that were needed are going to make the law work better. The two matters of major concern which we had we believe have now been addressed. We are most grateful to the Government for having seen those objections and accepted them.

You see, Madam Speaker, the point I am seeking to make in, perhaps, a rather long way is this: when we depart from the course which is set by the Constitution, we encounter huge hurdles, traps and problems along the way. In my view, if the constitutionally advised and prescribed procedure had been followed the Governor would have kicked the Bill back to us a long time ago.

Before I deal with a different but related issue, I must say this: I believe that far too scant regard is paid to the constitutional function of this Legislative Assembly. We somehow, as Members of the Legislative Assembly, seem to be shunted aside as often as possible because we are a nuisance to the process as devised by those who formulate the processes that we

have to partake in. It is a bother; it is a major problem to get a bill through the Legislative Assembly because we are going to debate it. It is a major problem to get monies voted because they are going to give us problems down in Finance Committee, but that is the constitutional function of the Legislative Assembly.

This arises from what I have just said. I regard it as a grave breach of procedure for us to proceed to debate the amendments of the Public Management and Finance Law 2001 without having seen the Law and, certainly, without any proper evidence that it has been assented to by His Excellency the Governor. I hasten to add, Madam Speaker, I do not regard the oral report of the Second Official Member as being proper evidence in that regard. I believe every word he has said, and I do not suggest for a moment that he has said anything that is not so. However, I do not believe that that is the sort of evidence of assent that the Legislative Assembly of the Cayman Islands can be expected to accept. That comes back to my point about the general, in my perception, lack of respect for this Assembly and for its process.

The Government gets all the respect in the world because they wheeled the reigns, but the legislative process now, ah, that is a nuisance. That is a hurdle in the way of getting done what we need to get done.

So, Madam Speaker, having identified the problems which have been part and parcel of this particular process, perhaps it has happened at the right time. While we are in the process of constitutional reform, it is just as well that we come to understand some of the difficulties that are incumbent in the current constitutional arrangements. Perhaps the way forward with constitutional reform will address some of these issues because I know that as a country, and as a society we have grown up awfully quickly; but in my respectful view, the office of the Attorney General is vested with too many responsibilities. We have reached a point where those responsibilities have started to conflict.

There are a number of fundamental questions which we need to answer. At this point in Cayman's development should any Member of the Executive Council be responsible for public prosecutions? If we address the principal cause for all of the debate that has ensued, and all of the angst and anxiety that has transpired over the course of not just the past few days but over the course of many months in efforts to ensure the continued constitutional independence of the office of the Attorney General, it is largely because of that. I believe that the way forward in relation to this is to separate the functions of that office.

In my respectful view, the office of Attorney General should be limited to the role of being the Government's principal legal advisor. The role as public prosecutor should be given to somebody else, to some other office, and it will not take a great deal of change of the system to recognise what is already the *de facto* situation by and large. While the Second Offi-

cial Member as Attorney General has *de jure* responsibility for prosecutions, the *de facto* situation is that the Solicitor General, or the office of the Solicitor General, generally runs most public prosecutions.

If we separate those two we would get away from a lot of the troubling aspects of the proposed changes to financial reform and management which, understandably, the Honourable Second Official Member has raised. However, there is an equally important point, and that is whether the Attorney General of the Cayman Islands, who is invested with the responsibility to be the principal legal advisor to the Cayman Islands Government, should also be permitted to give advice to the Governor.

A little earlier in my debate I identified the problems that are inherent in that situation when one type of advice is given to Executive Council and quite different, inconsistent and incompatible advice is proffered to the Governor. I believe there needs to be constitutional clarity about this aspect of the role of the office of the Attorney General as well. I am not suggesting that the Honourable Attorney General should not be able to give certain advice to the Governor, if that is what is necessary.

The Speaker: Honourable Member, may I invite you to reign your argument back as it relates to the Bill before us.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I have been seeking quite hard to do so . . .

[Inaudible crosstalk]

The Speaker: Order!

[Laughter]

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I will not belabour the point because I sense your concerns about that. However, I believe the example that I have sought to elucidate this afternoon makes that point with compelling force. It is difficult, if not nigh on impossible, for situations such as the one with which we are dealing not to occur when you have the same individual serving so many different masters. That is my point.

It creates concern outside the ambit of these Honourable Chambers as well. To whom does that office hold loyalty? Is it to the Government of the Cayman Islands, or is it to Her Majesty's Government? If I am giving advice to both Executive Council in one capacity and to the Governor in another, there are bound to be questions.

The Speaker: Is there a point of order, Honourable Second Official Member?

Point of Order

Hon. David F. Ballantyne: I do not wish to interrupt the flow of the Honourable Member, but I have a brief point of order which is that in giving advice to the Governor it is in his capacity as Governor of the Cayman Islands, not in his capacity as a representative. I appreciate he is a representative of Her Majesty's Government.

To make that point clear, all I wanted to say is that he is part of the Government of the Cayman Islands, in my view, and therefore it is appropriate that he should receive advice.

The Speaker: Second Elected Member for the district of George Town, would you give way for the elucidation that has just been given as it is not with the strictest form of point of order?

Mr. Alden M. McLaughlin, Jr.: Yes, Madam Speaker, let the Attorney General elucidate the point.

The Speaker: Albeit *de facto* consent, thank you.

Hon. David F. Ballantyne: Thank you, Madam Speaker. I am not going to dwell on the issue.

I however acknowledge, quite readily, that the composition of the form of Government currently in the Cayman Islands will have a potential for conflict of interest, and where conflict of interest does arise it is important that it should be recognised. All I would say is that the loyalty that I consider attached to the position is loyalty to the law, and in efforts to resolve these issues it has been an effort to try to do so within the Law. It has taken longer and I accept that and I think there are lessons for everyone in all of this that I think should be taken on board. I do not wish to dwell any further on the issue, Madam Speaker.

I just wanted to make it clear that I think it is part of the constitutional function of the Attorney General under the existing Constitution to give advice to the Governor in his capacity as Governor of the Cayman Islands and in respect of any of his responsibilities if I am permitted to say that. Thank you.

The Speaker: Thank you.

The Second Elected Member for George Town continuing.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I am grateful to the Honourable Second Official Member for that elucidation. I invite him to direct me to any provision in the Cayman Islands Constitution which places the responsibility for providing legal advice to the Governor on the shoulders of the Attorney General because I have been unable to find it.

The Speaker: Do you have a point of order, or is it a point of elucidation?

Hon. David F. Ballantyne: Not a point of order but it is simply a point of elucidation, if the Member allows.

The Speaker: Will you give way?

Please proceed, Second Official Member.

Hon. David F. Ballantyne: Thank you, Madam Speaker.

The only provision of which I am aware is the provision that was enacted in 1993, which states that the Office of the Attorney General shall be a public office and the Attorney General shall be the principal legal advisor to the Government. If you take the view that the Governor is part of the Government, it is within that definition and that is the view that I take. Although I acknowledge that there is no specific reference to Governor, it is my view that he represents the executive authority of the Government, albeit that he acts on the advice of the Executive Council.

I appreciate the Honourable Member's indulgence, but I hope that will clarify why I take the position I do. Thank you.

The Speaker: Second Elected Member for George Town continuing.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. Again, I am thankful to the Honourable Second Official Member for his contribution in that respect.

Nonetheless, Government means the Governor, the five elected Ministers of Executive Council and the three Official Members. When either of those individuals or holders of those offices operate outside Executive Council they are not the Government and the Governor is the Governor. I believe that I have made my point as strongly as I possibly can and I hold my view and the Honourable Second Official Member is obviously entitled to hold his.

If I might conclude my contribution by referring back to the Bill.

The Speaker: You have one hour and ten minutes remaining.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I will not keep you so long.

During the earlier part of my debate I referred to the constitutional responsibility of the Legislative Assembly. The concerns we raised in relation to what we believed would be the result of accepting clause 8 of the amending Bill: under the proposed amendment, the Portfolio of Legal Affairs would not be required to agree with Executive Council as to the cost of the outputs produced by that portfolio. We regard that as repugnant to our constitutional responsibility for the purse strings of this country because, contrary to what some may believe, Finance Committee comprises only of the Elected Members of the Legislative Assembly of the Cayman Islands. We vote for what expenditures are to be incurred on behalf of Government of the Cayman Islands. To us, not having the ability as we perceived that clause, having the effect of divest-

ing us of responsibility for the funds which are necessary to run the Portfolio of Legal Affairs, in our view, would have the serious effect of nullifying what we believe is our constitutional responsibility for administering the purse strings of this country.

We were not prepared, Madam Speaker, and I submit that it is certainly arguable that such a provision would be unconstitutional as well. In any event, we were not prepared to neuter ourselves with respect to fiscal responsibility.

Madam Speaker, there was a whole lot I wanted to say about those offending provisions, but thankfully, the concerns which were identified by my colleagues have been addressed, we believe, satisfactorily by the proposed Committee Stage amendments. Therefore, I will not belabour the point and I will not subject this Honourable House to a reiteration of the points made by the Honourable First Elected Member for George Town and the Elected Member for East End, who I think made those points so ably that they have been taken on board by the Government. I wish to thank the Government for that and I mean that sincerely. Even though the Leader of Government Business may not believe that I am sincere about that, I am. I am most grateful that they have listened, for a change, to what we have to say from this side of the floor. I now believe that the Bill, which does have a number of very important amendments in it which will make it a more effective and beneficial tool to improve public management and financial reform in this country, will now receive safe passage through the Legislative Assembly.

Madam Speaker, with those few words, I thank you for the opportunity of making my contribution to the debate on this important Bill.

The Speaker: The Leader of Government Business.

Hon. W. McKeever Bush: Madam Speaker, the Public Management and Finance Law, and the amending Bill which is now before this Honourable House, will bring into effect the fiscal responsibility provisions which all of us who are Members of this House know are required of a modern democratic and responsible Government.

For some time now Members on both sides of the House have advocated these provisions, and we should now welcome the fact that these desires have now become Law.

As I said the other day, we too were dismayed at the length of time that it took to get the Bill here. The truth is that the delay began and the problems began from Executive Council back in 2001, and nobody should try to change that, although the Second Elected Member for George Town did a fairly good job trying to lay blame elsewhere. Madam Speaker, he wound up his speech by congratulating the Government in putting the amendments forward.

If the Bill or the Law, which he praises the Opposition for, was as good as he said, there would not now need to be the amendments.

Point of Order

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, on a point of order.

The Speaker: Please state your point of order.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, the Honourable Leader is misleading the House. I have never been in Executive Council. He was in Executive Council when the Bill was promoted, presented and passed, not me.

Hon. W. McKeewa Bush: Madam Speaker.

The Speaker: Honourable Leader, please clarify as to what you meant.

Hon. W. McKeewa Bush: I do not know how the Member can say I am misleading because I have not gotten to the part yet. Since the Member chose to raise the matter, of course, to point blame at me—they have no other alternative, you know, but to say, *'Blame it on McKeewa'*—I will answer that in due course.

The Bill was brought to this Honourable House and rushed through its first reading without the benefit of going through the Business Committee. It was brought here on the 10 September 2001. Standing Order 45 was not suspended and the first reading of the Bill was taken.

The present interim leader of the People's Progressive Movement (PPM) and leading the Opposition was the then Chairman of the Business Committee. The Member likes to say that I, McKeewa Bush, was a Member of Council. I knew from then and I pointed it out that there were many things wrong. I am going to say this, Madam Speaker: my association with the thoughts and the processes that we face today in the Law goes way back between 1996 and 2000. I raised objections and concerns then that the attempts to put some of these things in place would require constitutional changes.

Madam Speaker, I know that you understand where I am coming from because you were also at that meeting with Mrs. Ruth Richardson, at the Marriott Hotel when we raised those questions. The answer was, *'You surely will need those constitutional changes'* and I have never backed down from that.

The problem has always been trying to get the two together; that is, the Honourable Attorney General's responsibility and the accountability that is needed with the constitutional role he is supposed to play, according to the 1972 Constitutional Order. How they tried in the Bill, the Law as it stands now, to marry the Attorney General's responsibility and the

accountability that is needed with the role, as I said, that he is supposed to play according to the 1972 Constitution, is impossible. If they had not brought the Bill when the Attorney General was not looking they would have had the benefit of his legal advice at that time.

As I showed you, Madam Speaker...

Point of Order

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, on a point of order.

The Speaker: Please state your point of order.

Mr. Alden M. McLaughlin, Jr.: Again, Madam Speaker, the Honourable Leader is misleading the House. He is suggesting there was no Attorney General present when the Bill was passed. That is not the case at all.

The Speaker: Honourable Leader, could you clarify as to who you intended the Attorney General to be in this statement.

Hon. W. McKeewa Bush: Madam Speaker, the Honourable Attorney General David Ballantyne—is that clear enough—was not in Executive Council. I am not saying anything disrespectful against who was acting because I have tremendous respect for that person, but it was connived and concealed as much as possible, since they want to hear it. It is a long-held situation in this country that when they do not like you they cannot come to your face and say, *'You know, I do not like you doing this thing, I do not like you doing that.'* They would rather connive and talk about you behind your back. That is exactly what use to occur on the fourth floor. Is that clear enough? I was there and I had to go through it, *don't I know it?*

In my opinion, in order to ensure the constitutional independence of the Attorney General's office, the Judiciary and the Complaints Commissioner, the amendments put before this House on Monday were necessary.

There has been much said about accountability and constitutional rights. If the Bill was as good then as the Members for George Town said, we would not be here this afternoon debating. He needs to check the records to see whether I was in this Legislature when you rushed it through.

The amendments are also necessary to give the Auditor General sufficient investigatory powers to allow him to execute his duties and responsibilities. That was not contained in the Bill. The amending Bill before the House today is here because the Law was so full of holes and areas that needed to be amended. It was an encroachment of the constitutional ability of those officers to carry out their duty.

As I said, I would certainly have liked to see closure of this issue a long time ago. However, what

kind of Government would we have been conducting if we continued with the Bill as it was?

They talked for two days about the constitutional ability and rights. Where would the good governance come in? Where would it come in when there was nothing there for the independence of the Attorney General's office, the Judiciary, the Complaints Commissioner and the Auditor General? Where would good governance have come from? According to the Law, there would have been none.

Madam Speaker, they knew full well, although they complain about constitutional changes now, that it would take a constitutional change in order to effect the different provisions for Chief Officer, and in particular, the Attorney General's responsibility. Nevertheless, they played their games. In my opinion, as I said earlier, they need to stop beating up on people to hide their own deficiencies. That is the problem.

I am glad though, Madam Speaker, if there ever was a case made for the United Democratic Party's push for constitutional reform, and for certain amendments to go in place before 2004 as the position for the opposing party, it was the speech made by the Second Elected Member for George Town. I hope that he do not change his position when we go to London. I hope that he sticks to that position because I intend to have every word he said in my hand.

[Inaudible interjection]

Hon. W. McKeeva Bush: I know that is your problem. I know what your problem is.

The Speaker: Order.

Hon. W. McKeeva Bush: Madam Speaker, the Member certainly has a problem, but I can deal with him.

I do not propose to review this Bill in its entirety in my debate as the Honourable Members have done a good job in clarifying various sections. However, I want to call Members' attention to the provisions of clause 5 of the Bill to amend the Public Management and Finance Law, 2002. This provision, in my view, is a clear example of the control features, which are built into the Bill and which will prevent sudden and *ad hoc* departures from the strategic policy statement and the budget. This is important. I raised it earlier and I raise it here again.

Clause 5 of the Bill states that it is the responsibility of a Minister or Official Member to recommend to the Governor in Council the outputs to be purchased from their Ministries or portfolios and it is the responsibility of the Governor in Council to determine the outputs to be purchased from a ministry or portfolio. No outputs may be produced by a ministry or portfolio unless the production of those outputs has been agreed by the Governor in Council in the relevant performance agreement.

Madam Speaker, clause 6(6) proceeds to allow that. I quote: "**6. A performance agreement may**

be amended by the Governor in Council during the financial year to which it relates provided that the price to be paid for each output in the amended performance agreement is sufficient to deliver the outputs required by the amended performance agreement."

Clearly, Madam Speaker, what will be required of the Government going forward is well thought-out advanced planning which will allow for unambiguous performance agreements and agreed budgets with chief officers. The passage of this legislation will be an acknowledgement by all Members of this Honourable House that budgets in the future will be more rigid and that a significant amount of the flexibility which was present hitherto, which allowed for *ad hoc* decisions regarding the re-allocation of expenditure, is being removed. This is not to say that there has been a total removal of this flexibility, but there is now a clearly defined process which must be followed before projects or services, which are not covered by a performance agreement, can be funded and executed.

What must happen in these circumstances in the future is that the matter must be brought to the Governor in Council for approval to amend the performance agreement to allow for expenditure which was not covered under the original performance agreement. This is provided that the additional, or alternative, output or inputs which are specified in the amended performance agreement are sufficiently funded. This is an important point for all Members of this Honourable House to note, as Members will not now be able to run to Ministers or Departments and say, '*I want this*' or '*I want that*' during the course of the year. That is something that we must seriously take into consideration. When your public runs to you, the man on the street, for something, it may be something that is really needed. The Law does not say that you are just going to up and change the Budget for that.

Some of them may be Ministers of Government in the future, and if they are not cognisant of this issue they are likely to find themselves in disputes with their Permanent Secretaries as a result of the reduction in flexibility with respect to the re-allocation of funds for projects and services not covered by the performance agreement.

The public whom we serve will have to understand too, when they ask for things to be done in mid-stream, that was not budgeted for. So we need to take those things into consideration and I know some of us have and I know that we will look at the legislation a little later on to see how much it can be cleared.

These provisions, Madam Speaker, will bring the discipline that has been sadly lacking in the past and will prevent unbudgeted expenditure in the future. So, the Bill/Law is really needed; it is a good piece of legislation, but let us not stand here and be so hypocritical to lay blame all over the House without first

realising what was done in the very first instance. The Opposition are not absolved from the blame.

Madam Speaker, the Member for East End should stop interrupting because he really does not understand; he is only doing what he is told.

I am satisfied that we have come the right way and we will, in the end, have a piece of legislation that the country needs. Tomorrow we will present a Budget, a good budget, based on that kind of legislation.

Thank you very much, Madam Speaker.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Last call.

The Second Elected Member for the district of West Bay.

Mr. Rolston Anglin: Thank you, Madam Speaker. I will be extremely brief, as I usually am.

[Laughter]

Mr. Rolston Anglin: I say that to warn everybody to get their blankets and pillows and get comfortable.

Madam Speaker, I rise to offer a few brief comments on this continual evolution of the Public Management and Finance Law. With your permission, Madam Speaker, I would like to just quote what I said on 24 September 2001.

The Speaker: Please proceed.

Mr. Rolston Anglin: In my contribution I started off by saying, and I quote, "let us remember that there is much work to be done."

I have listened to all the various contributions, and certainly I think we have now arrived at a position where we all can support the amendments, the commitments that have been given in terms of the signed Committee Stage amendments to allow us all to support the amending Bill before us.

I would like to elaborate on the position that will be outlined in regards to section 60 of the Law.

Now, we have seen that, certainly, this piece of legislation is a gigantic step in the right direction, but a work in progress. It is imperative that this Law not only protect those persons who are constitutionally protected and those persons who are hired to be Civil Servants, but offer protection and safeguards for those of us who have to go to the polls every four years. This Law must allow us to effectively manage the resources of this country. Contrary to what a lot of people think, we are the ones that put ourselves on the line and are sent by the public to manage the resources of this country to develop and give policy direction to the civil service as to the path that the country must go in. That is democracy, Madam Speaker.

The one thing that I observe, as we continually visit and revisit this piece of legislation, is that,

indeed, it is a working process. We are getting it better and each step we take we are getting closer and closer. However, we have all acknowledged that there are a number of fundamental changes that must take place in order for everyone to function effectively under this new regime. We must have fundamental changes in the Human Resource aspect of Government and we must have fundamental change in the constitutional arrangements within our country. That is ongoing and I must say that the Second Elected Member for George Town did a good job practicing his speech for when we get to London in the not too distant future, God willing. I think many of the points that he made will be pertinent and relevant for us to discuss with the Foreign and Commonwealth Office.

There is a proposed amendment that will alter the way in which Auditor General reports are dealt with by the Parliament. I think the changes that are being proposed are much more sound for everyone involved.

The one thing that we need to continually be aware of is the fact that it is often quite nice and gives you good, warm, fuzzy feelings to put things on paper. It sounds nice, it feels nice, and everybody is feeling very smug. Yet then when you come to practice certain things, the realities are very different than the theories that were put forward.

One thing that has been most useful which I think everyone in this House can agree on—indeed the Honourable Members of the Opposition have eluded to that—is the fact that along this process, which is so very critical to us as legislators and to the country, we have debated, points have been taken, changes have been made and people's voices have been heard. That is very important in the democratic process. It has been quite useful to make these changes so that as we evolve, our Public Management and Finance Law is something that is distinctly Caymanian. It is easy to look at various practices in other countries that work quite well for them, but will not necessarily work well for us, so that is one of the things being sought here.

I think the six-month timeline that will now be instituted in the Law, in terms of the period of time an Auditor General's report has to be dealt with once submitted to the Clerk of this Honourable House, is quite reasonable. It is also keeping in order with open, accountable and transparent Government because the Law clearly states that if the matter has not been dealt with by the Public Accounts Committee and the Government minute is not in place within those six months, the Report becomes public knowledge.

What is so useful about this is that within a short period of time we wind up going from the position of the Auditor General submitting his report to the Clerk, to the Public Accounts Committee deliberating on the report and creating their own report on behalf of the Parliament. In turn, Government, equipped with both reports, will offer their position so that the public,

in a very short period of time, is given all relevant angles to an Auditor General's Report.

I think this has been a cooperative process; I think we have had some intense and quite lively moments in this debate over the last few hours, but that is good because in those lively moments came new thoughts, new ideas. Certainly, when those are incorporated and you pull what is good, irrespective of whether you are Government or Opposition, you create legislation and you continue to change the direction which is healthy.

Madam Speaker, there is another area being amended that caused me some concern. The amendment to create section 39(1)(a) deals with the responsibility of the chief officer to determine and acquire the inputs to produce the outputs specified in his finalised performance agreement. Subject to section 40, no decision or action in relation to inputs shall be taken by or on behalf of the ministry or portfolio for the purposes of this Law unless the decision or action has been made, taken or agreed by the chief officer of the ministry or portfolio.

Again, one of the things we are trying to do in this legislation is to make Government a lot more similar to the real world in terms of a company. One does not have to look too far to realise that you cannot get that perfect because companies are driven by profit motives. Companies report to distinct shareholders who have invested discreet sums of money. The Government is a very different creature. However, trying to apply as many of those principles as possible, we believe is healthy. I think that is something that all in this Honourable House firmly believe.

I had some concerns with that but, Madam Speaker, when one look at some of the other sections within this piece of legislation, like section 36, one will see that there are certain other safeguards in the legislation. These safeguards will allow the Ministers of the Executive Council, even where there is grey area between the actions of a chief officer and the performance agreement, to deal with those circumstances via the Honourable Third Official Member, the Honorable Financial Secretary and that particular office.

Again, we are not going to get some of these technical details absolutely perfect because Government is not a company and Government by nature will never be a company. However, the more we move down this road and the more we seek to incorporate the views of everyone, we will get this thing closer and closer to being an ideal piece of legislation if that is possible.

Madam Speaker, I think this whole debate from the last few hours and, in fact, carrying on from yesterday has shown that, indeed, Parliamentary democracy is alive and well in the Cayman Islands.

Often time we hear of voices crying in the wilderness not being heard, but the Government has clearly shown that where input is constructive and valid it will be taken on board and changes will be

forthcoming to accommodate constructive and useful ideas.

I would like to also point out that the creation of the new subsections (4),(5),(6) and (7) must be read in conjunction with section 59(e). The point has been made that yes, the Auditor General will have additional authority to force and get information that he needs, but it is under a very specific provision of his authority. If we look at section 59 which deals with the powers and duties of the Auditor General we will see that (e) deals with when the Auditor General is authorised in writing by the Governor in the public interest to conduct investigations into the financial management or affair of persons, companies and bodies. So he does not necessarily have this authority with all of his audits and investigations. It relates specifically, if I read this correctly, to a very specific provision under which he is allowed or empowered to carry out an audit or an investigation.

I believe it is safe to say that the Members of the Opposition, the Back Bench Members and the Government itself, have now arrived at a position in terms of the amendments that we can all agree on to move this process forward.

It was all of us who last year passed this legislation. Indeed at the time, during your contribution to the debate, Madam Speaker, you flagged up, I think it was, probably in excess of twenty points of concern that you had. I think it is quite evident that for you to have that amount of cautions and concerns, indeed, you were right in that this is a working document. It is a step but we must remember it is the first step in a journey that will probably take us several years. Certainly, we have certain amounts of time because the full effects of this Bill will not come in until the year 2004.

Madam Speaker, I would like to thank Members. As I promised, I would be brief.

I support the amendments to this legislation. I think this is a good example of the Government showing its ability to listen, to take on constructive debate as well as engage the Members of the Opposition in constructive debate, and wind up at a position where we can all support a piece of legislation.

I thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Last call. Does any other Member wish to speak?

If not, I will call upon the Honourable Third Official Member to exercise his right of reply.

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

Much has been said about this amending Bill since yesterday. If one raises the question as to whether the Bill will be one hundred per cent perfect, the answer will be definitely no. If the question is raised as to whether we will have a better framework

in which to manage the finances of the Government, the answer will be unequivocally yes.

Madam Speaker, I have listened to the debate by various Members and every clause of the amending bill has been covered with appropriate explanation given. It was stated that when I introduced the Bill I did not give the clarity that should have been provided at the time of its presentation. This, to a given extent, is deliberately so because I was fully aware then, as I am now—and Honourable Members of this House would have taken note—that the explanations provided by the Honourable Second Official Member would have been necessary in order to achieve the clarity that Members were seeking in regards to the delay in the presentation of the Bill and why certain provisions were being made.

Madam Speaker, the issue in terms of the role of the Second Official Member as chief officer has been addressed through an amendment that will be dealt with in the Committee Stage on the Bill. The ability of the Auditor General to access information and how his reports will be dealt with have also been addressed, and these are the key issues. Section 39(1) sets out very clearly the role of Executive Council in deciding on output and the role of chief officers in determining outputs.

Madam Speaker, I think this Bill will take us a far way in improving upon what we have got in place, and the beneficiary of this Bill will be the country at large.

I would just like to take this opportunity to say a special thanks to the consultant, Mr. Tony Dale, who has been very acedias in terms of his input into this Bill; the Director of Budget and Management Services; and I also want to recognise Mrs. Brant, who has worked very closely with us in taking us through the amendments. I also thank Honourable Members for their contribution because with the amendment that evolved from the debates that have taken place, we will have a much better piece of legislation to manage the finances of Government.

Thank you, Madam Speaker.

The Speaker: I wish to now put the question but I need a quorum of eight Members.

The question is that a Bill shortly entitled the Public Management and Finance (Amendment) Bill, 2002 be given a Second Reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Public Management and Finance (Amendment) Bill, 2002 given a Second Reading.

The Speaker: Leader of Government Business, I believe you were trying to get my attention.

Hon. W. McKeever Bush: Madam Speaker, I think we are going to adjourn.

[Pause]

Hon. W. McKeever Bush: Madam Speaker, it seems that Members would like to complete the Bill, so I would ask that you move to Committee Stage.

The Speaker: Thank you. The House will now go into Committee.

House in Committee at 6.41 pm

COMMITTEE ON BILL

The Chairman: Please be seated.

With the leave of the House, may I assume that, as usual, we will authorise the Honourable Second Official Member to correct minor errors and such the like in these Bills?

Would the Clerk please state the Bill and read the clauses.

The Public Management and Finance (Amendment) Bill, 2002

The Clerk: Clauses 1 Short title and commencement.

The Chairman: Honourable Member, I believe that there is an amendment to clause 1, but you first need to seek the two-days' waive notice.

Hon. George A. McCarthy: Madam Speaker, under the relevant Standing Orders I would seek approval for the two days' notice to be waived.

The Chairman: Two days' notice being waived. Please proceed.

Hon. George A. McCarthy: Madam Speaker, in accordance with the provisions of Standing Order 52(1) and (2) I give notice to move the following amendments to the Public Management and Finance (Amendment) Bill, 2002:

That the Law be amended by deleting clause 1 and substituting the following clause: "1. This Law may be cited as a Public Management and Finance (Amendment) Law, 2002 and comes into force on the 7 November 2002."

The Chairman: It has been moved. Does any Member wish to speak to the said amendment?

If no Member wishes to speak, the question is that the amendment stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: The amendment stands part of the Clause.

The Chairman: The question is that clause 1 as amended stands part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: The clause as amended stands part of the Bill.

The Clerk: Clause 2 Amendment of section 2 of the Public Management and Finance Law, 2001 commencement.

The Chairman: If no Member wishes to debate clause 2, the question is that clause 2 stands part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 2 stands part of the Bill.

The Clerk: Clause 3 Amendment of section 3, definitions.

The Chairman: I believe there is an intended amendment. Honourable Third Official Member, perhaps if you would just seek leave for the two days' notice for all of the amendments then I would not have to put you through that each time.

Hon. George A. McCarthy: Thank you, Madam Speaker.

Madam Speaker, I will seek the leave of the chair for the two days' notice to be granted in respect of all of the amendments to be effected in respect of this Bill.

The Chairman: So granted. Please proceed with the amendment.

Hon. George A. McCarthy: Madam Speaker, could I also seek approval that the preamble be applicable to all of the amendments?

The Chairman: So granted, in light of the time of the day.

Hon. George A. McCarthy: Madam Speaker, that the Bill be amended in clause 3 by deleting paragraph (a)(i) and substituting the following – "(i) by repealing subparagraph (ii) of paragraph (b) and substituting the following subparagraph – '(ii) in the case of the Portfolio of Legal Affairs, such public officer in the Portfolio as may be designated by the Governor; and'; and"

The Chairman: The amendment is duly moved. Does any Member wish to speak thereto? If no Member wishes to speak, the question is that the amendment stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: The amendment stands part of the clause.

The Chairman: The question is that clause 3 as amended stands part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: The amendment stands part of the Bill.

The Clerk:

Clause 4 Amendment of section 11. Permanent appropriations.

Clause 5 Amendment of section 39. Powers of Chief Officer of a Ministry or Portfolio.

The Chairman: The question is that clauses 4 and 5 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 4 and 5 stand part of the Bill.

The Clerk: Clause 6 Amendment of section 42. Performance agreement.

The Chairman: I believe there is an amendment. Honourable Third Official Member.

Hon. George A. McCarthy: Yes, Madam Chairman, that the Bill be amended as follows— In clause 6 by deleting paragraph (a)(ii). That the Bill be amended in clause 6 by repealing paragraph (b) and substituting the following paragraph— "(b) by repealing subsec-

tion (6) and substituting the following subsection – ‘(6) A performance agreement may be amended by the Governor in Council during the financial year to which it relates provided that the price to be paid for each output in the amended performance agreement is sufficient to deliver the outputs required by the amended performance agreement.’”

Madam Chairman, it continues. “The principle Law is amended in section 6 by repealing—‘this is clause 6A’” that I am now reading.

The Chairman: Could you please state which amendment?

Hon. George A. McCarthy: Madam Speaker, this is number 1. I read number 1, and I am now reading number 2. I am now reading the amendment to clause 6— “in clause 6 by deleting paragraph (a)(ii); by inserting after clause 6 the following clause –

‘New Clause 6A

‘6A. The principal Law is amended in section 60 by of section 60 – repealing subsection (2) and substituting the following reporting by subsections

‘(2) As soon as a report specified in subsection (1)(b) (in this section referred to as “the Auditor-General’s report”) is delivered to the Clerk of the Legislative Assembly for presentation to the Legislative Assembly, the Auditor-General’s report shall be referred by the Clerk to the Public Accounts Committee for consideration and shall forthwith be distributed on a confidential basis to all Members.

‘(3) The Public Accounts Committee shall make its report upon the Auditor-General’s report within three months of the Committee’s receipt thereof and both the Committee’s report and the Auditor-General’s report shall be laid on the Table of the House at the same time.

‘(4) The Government Minute shall be laid on the Table of the House within three months of the laying of the report of the Committee and of the Auditor-General’s report to which it relates.

‘(5) The Auditor-General’s report shall become a public document upon the report being laid in the Legislative Assembly pursuant to subsection (3) or upon the expiration of a period of six months commencing on the date upon which the report is delivered to the Clerk of the Legislative Assembly pursuant to subsection (2) (whichever is the later); and the Auditor-General shall provide a copy to any person requesting one on payment of a copying charge prescribed by regulations made by the Financial Secretary.’”

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? If no Member wishes to speak, the question is that the amendment stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments passed.

The Chairman: The question is that clause 6 as amended stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 6, as twice amended, passed.

The Chairman: The question as it relates to the new clause 6 is that the clause be added to the Bill and that the subsequent clauses be renumbered accordingly. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: The clause be added to the Bill.

The Clerk: Clause 7 Amendment of section 63. Investigatory powers of the Auditor General.

The Chairman: I believe there is an amendment to Clause 7 as well.

Hon. George A. McCarthy: It reads— by deleting clause 7 and substituting the following clause – “Amendment of section 63 -investigatory powers of the Auditor-General. 7. The principal Law is amended in section 63 as follows - in subsection (1), by repealing paragraph (a) and substituting the following paragraph - ” (a) the right of access to all information held by any public officer or employee of a statutory authority or government company;” and by inserting after subsection (3) the following subsections -

‘(4) Where a person fails to comply with a direction given under subsection (3) within three days from the date of the direction or such longer period as the Auditor-General may permit, the Auditor-General may apply to a court of summary jurisdiction for an order requiring the person to comply with the requirement or direction.

‘(5) Where, in connection with a direction given under subsection (3), the Auditor-General considers it necessary to examine a person on oath, the Auditor-General may apply to a court of summary jurisdiction to have that person examined by the court

and to have the results of that examination sent to the Auditor-General.

'(6) The court shall process an application under subsection (5) and send the results of the examination to the Auditor-General.

'(7) Where a person complies with a direction under subsection (4) or an order under subsection (4), or gives evidence under subsection (5), such compliance shall not be treated as a breach of any restriction upon disclosure of information by or under any law and shall not give rise to any civil liability.'

[The Honourable Member further moved that in subsection (5), subsection (4) be deleted and substituted by subsection (3).]

And Madam Chairman in notice number 3 there is a first amendment;

That the Bill be amended in clause 7. . .

The Chairman: Honourable Member, I believe we need to change the tape so may I ask you to pause just for a moment?

[Pause]

Proceedings suspended at 6.55 pm

Proceedings resumed at 6.56 pm

The Chairman: Please proceed, Honourable Third Official Member.

Hon. George A. McCarthy: Reading from notice (iii), Madam Speaker. That the Bill be amended in clause 7 (further to Notice of Committee Stage Amendment (No. 2)), by inserting after paragraph (a) the following paragraph - "(aa) in subsection (3) by inserting after the words "companies and bodies" the words "but shall not include a right of access to information held by a member of the Governor in Council or a member of the Legislative Assembly;".

The Chairman: Honourable Third Official Member, I believe the intention would say 'by a Member of the Government'. Am I correct? If so, that could be a correction. The last one that you just said (aa), as opposed to a Member of the Governor was it intended to mean a Member of the Government—Governor in Council? All right, I am sorry.

Hon. George A. McCarthy: Governor in Council or a Member of the Legislative Assembly.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Chairman. I am just wondering if this also extends to the Members of Governor in Council and the Legislative Assembly in their private capacity.

The Chairman: Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, can I ask the Honourable Member for East End to repeat?

The Chairman: Could you please repeat, Honourable Member for East End?

Mr. V. Arden McLean: Madam Chairman, the amendment calls and says that it shall not include a right of access to information held by a Member of the Governor in Council or a Member of the Legislative Assembly. I am asking if it also extends to those Members of the Governor in Council and the Legislative Assembly in their private capacity.

The Chairman: Elected Member for East End, perhaps you may assist the other Members of the House by expounding somewhat as to what you mean by private capacity.

Mr. V. Arden McLean: Well, Madam Chairman, I am, for instance, wondering if a Member of the Legislative Assembly has a business that is related to Government and the Auditor General needs to get information in his capacity to audit a Government Department, would it also extend to where that Member of the Legislative Assembly does not have to give that information?

Hon. George A. McCarthy: Madam Chairman, based on advice that I have received it would not extend to these persons in their private capacities, because it is the offices that are held by these individuals that are being described and not their private existence as persons.

The Chairman: The question is that the amendment stand part of clause 7.

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

Ayes.

The Chairman: The Ayes have it. The question is that clause 7 as amended stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 7, as thrice amended, passed.

The Clerk: Clause 8 Insertion of sections 77(a)(b) and (c). Law not affect the constitutional independence of the Attorney General, the Judiciary or the Complaints Commissioner.

The Chairman: I believe there are also amendments for this clause.

Hon. George A. McCarthy: Yes, Madam Chairman.

In clause 8, by deleting the new section 77A(2) proposed for insertion in the principal Law, and substituting the following - “ (2) The provisions of this Law shall apply to the Portfolio of Legal Affairs, except that -

(a) in the performance agreement –

- (i) in relation to the outputs of the Portfolio that relate to the functions of the Attorney-General specified in the Constitution, the specifications set out in section 42(2)(a)(i) to (iv) shall be contained in the performance agreement but shall be subject to agreement with the Attorney-General;
- (ii) in relation to the outputs of the Portfolio that relate to the functions of the Attorney-General specified in the Constitution, the specifications set out in section 42(2)(a)(v) to (viii) shall be contained in the performance agreement but shall be subject to agreement with the Governor in Council; and
- (iii) in relation to the other outputs of the Portfolio, the specifications set out in section 42(2)(a) shall be contained in the performance agreement and shall be subject to agreement with the Governor in Council; and

(b) the chief officer shall be accountable to the Attorney-General for the delivery of the specifications provided for in paragraph (a)(i) and (ii) and shall be accountable to the Governor in Council for the delivery of the specifications provided for in paragraph (a)(iii).”

The Chairman: The amendment has been duly moved does any Member wish to speak? If not, the question is that the amendment stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: The amendment passed.

The Chairman: The question is that clause 8 as amended stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 8, as amended, passed.

The Clerk: Clause 9 Amendment of the principle Law. Governor in Council.

The Chairman: If no Member wishes to debate the question is that Clause 9 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 9 passed.

The Chairman: Honourable Third Official Member, did you wish to catch my eye on a matter?

Hon. George A. McCarthy: Yes, Madam Chairman. Is it possible to recommit paragraph 5 of clause 6?

The Chairman: Please proceed.

Hon. George A. McCarthy: Madam Chairman, in the second line where it reads;

The Auditor-General's report shall become a public . . .

New Clause 6A Recommitted

The Chairman: Honourable Member, sorry to interrupt, but permit me please to put the question for the recommitment.

The question is that clause 6 be recommitted for further consideration.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: That new Clause 6 be recommitted.

Hon. George A. McCarthy: Thank you very much, Madam Chairman.

Specifically, paragraph 5 of 6A. In the second line the word 'report' should read 'minute' and the subsection reference in that same line that was 4 originally should be 3 should revert to being 4. So it would read: "The Auditor-General's report shall become a public document upon the minute being laid in the Legislative Assembly pursuant to subsection (4) or upon the expiration of a period of six months, etc."

The Chairman: Thank you.

Hon. George A. McCarthy: There is one more.

In the fifth line where there is in brackets (whichever is the later); the word "later" should be replaced by "earlier". So it would read "(whichever is the earlier)" instead of "later".

The Chairman: Is that the extent of the amendment?

Hon. George A. McCarthy: That is the extent, Madam Chairman.

The Chairman: Thank you. The amendments have been moved. Is there any Member who wishes to speak to it?

Member for East End.

Mr. V. Arden McLean: Thank you, Madam Chairman.

I wonder if the Third Official Member could explain what happens to a report when it is laid in the Legislative Assembly, if it is not then a public document.

The Chairman: The Honourable Third Official Member.

Mr. Rolston Anglin: Madam Chairman.

The Chairman: The Second Elected Member for West Bay.

Mr. Rolston Anglin: Madam Chairman, the provisions clearly outline that when the report in subsection 2 is submitted to the Clerk, the Auditor General's report shall be referred by the Clerk to the Public Accounts Committee for consideration and shall forthwith be distributed on a confidential basis to all Members.

The Chairman: Member for East End.

Mr. V. Arden McLean: Madam Chairman, I totally agree with the Second Elected Member for West Bay, but under section 3 it says that Public Accounts Committee shall make its report upon the Auditor General's report within three months of the Committee's receipt thereof, which is from the Clerk, and both the Committee's report and the Auditor General's report shall be laid on the Table of the House at the same time, which is within three months after receipt from the Clerk, which should be confidential.

We were saying that the Government minute shall be laid on the Table of the House within three months of the laying of the report of the Committee and of the Auditor General's report to which it relates. Now we are saying that it does not become a public document until the Minute of Government is laid.

My understanding is, as soon as a report is laid at this Honourable House it becomes a public document. Therefore, how are we going to keep it confidential between laying the report of the Public

Accounts Committee and the Auditor General and the Government Minute being laid?

The Chairman: Second Elected Member for West Bay.

Honourable Third Official Member, did you wish to respond?

Hon. George A. McCarthy: Madam Chairman, I am seeking some advice on this, if you will allow me a minute.

The Second Elected Member for West Bay will respond to the question.

Mr. Rolston Anglin: Madam Chairman, the Member for East End has pointed out a difficulty in the proposed amendment and I would propose that this would have to be recommitted and read: "The Public Accounts shall make its report upon the Auditor General's report within three months of the Committee's receipt thereof, and both the Committee's report and the Auditor General's report shall be presented to the House at the same time."

As we currently do, we commit it to the House, we defer the debate until the Government Minute would come back so as to keep within the same practice that we currently have. The biggest change is that this now forces the report to be dealt with at a maximum within 6 months of it being presented to the Clerk.

The Chairman: Member for East End, are you satisfied with the clarification?

Mr. V. Arden McLean: No, Madam Chairman. I hear the Second Elected Member for West Bay and I can see his rationale, but then, Madam Chairman, the six months only makes provisions for the Auditor General's report to be made public.

The Public Accounts Committee report will not be made public because 5 says that the Auditor General's report shall become a public document upon the report being laid in the Legislative Assembly pursuant to subsection 4, or upon the expiration of a period of six months commencing on the date upon which the Report is delivered.

Yes, Madam Chairman, he is saying that if it is presented to the Legislative Assembly it is not made a public document in 3.

The Chairman: Third Official Member, I believe the Second Elected Member for George Town has a point. I do not know whether you wish to hear his point and respond in concert, or whether you wish to respond separately to the Member for East End.

Hon. George A. McCarthy: Madam Chairman, I would like to hear his comments.

The Chairman: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Madam Chairman, I believe that there is a more fundamental problem than that. I have only just applied my mind to this, to be honest. Is it proper for the legislation, that is, this legislation, the Public Management and Finance Bill, to interfere or mandate with the proceedings of a Committee of this Honourable House? I do not believe that it is permissible for there to be included in this piece of legislation directions to the Public Accounts Committee, which is a creature of this Honourable House. In the Standing Orders, which are currently extant, the function and process in Public Accounts Committee is stipulated. So what is to become of the Standing Orders of this Honourable House? Is the effect of this to override the Standing Orders?

Perhaps that is the legal question, perhaps a constitutional one that someone over on the other side can answer.

Mr. Rolston Anglin: But, Madam Chairman, with all due respect, the original Bill that we passed last September did just that, so I guess we are back to square one on this particular point.

Am I taking it then that the Second Elected Member for George Town is asking whether or not we should deal with this at all in this legislation or should we deal with it purely in the Standing Orders? Is that the question?

The Chairman: The Honourable Second Official Member, could you respond to the question from the Second Elected Member for George Town.

Hon. David F. Ballantyne: Madam Chairman, I hesitate to commend the Second Elected Member for George Town for having spotted a potential constitutional difficulty.

It seems to me that the question arising is whether it is competent in legislation to prescribe the internal procedures of the House on a matter other than in the Standing Orders. If I may be permitted, before offering a view, to have a look at the constitutional provision for a moment. I believe, in any event, that my colleague, the Third Official Member, may wish a couple of minutes anyway. If I could be permitted the same facility, I would be obliged.

The Chairman: So granted.

[Pause]

The Chairman: Honourable Second Official Member.

Hon. David F. Ballantyne: Thank you, Madam Chairman.

I notice that section 39 of the Constitution (the one that I referred to earlier which requires the Govern-

nor to reserve bills repugnant to the Constitution for signification of Her Majesty's pleasure) also has a provision, which I read out earlier. It states that signification has to be reserved on any bill which determines or regulates the privileges, immunities or powers of the Assembly or of its Members.

It would appear that the Constitution does contemplate the possibility that a Law may make provision regarding the powers of the Assembly. If it can do that, it would seem to follow from that that it could also prescribe, with the approval of the House, the way in which those powers would be exercised.

I would suggest, however, that we would also want to look at the provisions under which the Standing Orders of the House are made to make sure that there is no incompatibility. If I may take a further moment I would like to look at that.

The Chairman: Certainly. Perhaps you may want to address your mind to Standing Order 77 (6) while perusing the other Standing Orders.

[Pause]

The Chairman: The Honourable Second Official Member.

Hon. David F. Ballantyne: Madam Chairman, I am looking at section 31 of the Constitution which says:

"31.—(1) Subject to the provisions of this Constitution and of any Instructions under Her Majesty's Sign Manual and Signet, the Assembly may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and for the passing, intituling and numbering of Bills and for the presentation thereof to the Governor for assent; but no such Standing Orders or amendments or revocation thereof shall have effect unless they have been approved by the Governor.

"(2) The first Standing Orders of the Assembly shall, subject to the provisions of this Constitution, be the Standing Orders of the Legislative Assembly constituted by the Order of 1965, as in force immediately before the appointed day, with such adaptations and modifications as may be necessary, and those Standing Orders maybe amended or revoked by Standing Orders made under the last foregoing subsection."

I think I would be inclined, and I am about to look at the Standing Orders 6, as you suggested. Am I reading this correctly? Is it the one about the duty of the Member?

No?

The Chairman: Practice and Procedure.

Hon. David F. Ballantyne: Standing Order 6

The Chairman: Section 77(6).

Hon. David F. Ballantyne: I beg your pardon. “(6) Subject to these Standing Orders, the practice and procedure of the Public Accounts Committee shall be determined by the Committee.”

It would appear to indicate that the procedure to be followed is a matter for determination by the Committee. If that, indeed, is the case prior to the enactment of the Public Management and Finance Law, we now have a situation where the Law has made provision for a matter which is in conflict with the Standing Orders. It would probably be necessary to amend the Standing Orders to remove that inconsistency, assuming that the House has the power anyway to pass a Law regarding the exercise of its own power.

I am bound to think that based on the provision in section 39, there is such an ability, but the dilemma with that is that if that somehow contradicts the provisions regarding the making of Standing Orders, which are specifically designed for the regulation and orderly conduct of its own proceedings, it may be an inappropriate instrument to do this in the Law with the benefit of hindsight.

It may be that the best course of action might be to repeal by Committee Stage amendment those provisions in the original Law that had this effect and to reinstate them or insert them into the Standing Orders of the House, which would be, probably, a more appropriate vehicle for that kind of business.

There is something a little awkward, not amounting to repugnancy necessarily, about having a Law that, as it were, supersedes the Standing Order ability.

A Constitution, if I may be permitted to say so, has to be interpreted in a purposive way. It is a living document based on the Bermuda case of the interpretation of the word “child”, Ministry of Home Affairs v. Fisher. The word “child” was held to include illegitimate child. So it has to be given a broad interpretation.

I think the broad interpretation, to cut a long story short, is that this kind of provision would be better, if I can put it that way, in Standing Orders, but the Standing Orders incorporate the timetables. I do not know if we can easily repeal the provisions in the original Law, but if we can I think that we can identify them now and then make the necessary amendments to the Standing Orders for the conduct of the Public Accounts Committee.

Finally, if it is right to invest the House as it is, with the oversight for this Public Management and Finance Law, the main oversight body is the Public Accounts Committee, as well as Finance Committee and the House as a whole. I think it would be in deference to the Public Accounts Committee to do it in the way that I have described rather than in the Law.

The Chairman: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Chairman.

I have no hesitation at all in agreeing with what the Second Official Member has said in that regard. I just wonder if we have to propose a new Committee Stage amendment to repeal the provisions as they obtain in the substantive Law. Or, can we deal with it here?

The Chairman: The Honourable Second Official Member.

Hon. David F. Ballantyne: Thank, Madam Chairman.

I think we can, with the leave of the House and dispensing the notice requirements, bring a further Committee Stage amendment at this juncture. That would be the proper way to do it. It should be in writing, however, and we should be clear about what we are doing to avoid getting into real difficulties. We have had enough of those.

If it could be put in writing and circulated quickly, identifying sections of the original Law, that would be the better course.

The Chairman: Honourable Second Official Member, is that a request for today?

Hon. David F. Ballantyne: It is a suggestion, Madam Chairman, as to how this could be expedited.

The alternative would be to leave matters as they are in the original Law but bring an early amendment to carry out that repeal, but I cannot see what purpose that would achieve. I think, possibly, Members are indicating that they have had enough amendment of this Law. Perhaps if we could repeal it now, I think this would be the time and the place to do it.

The Chairman: How much time would you need to put it in writing, Honourable Second Official Member?

[Pause]

Hon. David F. Ballantyne: In the circumstances, I am advised that it is simply subsection 2 of section 60 which would need to be repealed. If that is right, then perhaps the House could look at their interlined version of the Law to satisfy themselves about that. If it was agreed that it was only subsection 2 of section 60, then perhaps the House would take that from the Third Official Member as a Committee Stage amendment, with the balance going into Standing Orders.

Mr. V. Arden McLean: Yes, Madam Chairman. It appears like it is only section 2 about the presentation to the Legislative Assembly being made a public docu-

ment. Maybe we can repeal that and come back with it at a later stage.

The Chairman: Honourable Second Official Member.

Hon. David F. Ballantyne: Thank you. I have looked at this, am I reading the right part? **“60(2) As soon as a report specified in subsection (1)(b) is delivered to the Clerk of the Legislative Assembly for presentation to the Legislative Assembly it shall be a public document.”**

If that is the difficult provision and it is desired to repeal that, the only issue might be to put in the Law, if it is appropriate to put it in the Law, when it does become a public document. I do not know whether it would be competent to say in the Standing Orders as to when the document becomes a public document.

If it is competent to have it in the Standing Orders, then we can simply affect the repeal of section 60(2).

The Chairman: Second Elected Member for George Town, do you have an additional point?

Mr. Alden M. McLaughlin, Jr.: Yes, Madam Chairman.

I am just trying to find the easiest way forward in relation to how we deal with this. I think we are in agreement that most of this should probably be in the Standing Orders and not in the substantive legislation. However, it appears to me that it is only, as the Elected Member for East End said, section 60(2) really that causes a problem that we would need to seek the repeal of.

Maybe I have not fully understood what the Honourable Second Official Member just said, which is possible. I am not sure that I followed all of it because I was talking to someone else, I am afraid. Is it not the case that whatever is tabled would become a public document at that point? Do we really need to specify in the legislation or in the Standing Orders that that is the case?

The Chairman: The Second Official Member.

Hon. David F. Ballantyne: My view would be that we do not need to say that, Madam Chairman; it is only because the amendment to the Law purported to do that.

I think if the procedure can be devised satisfactory to those who have to deal with the Public Accounts Committee in the Standing Orders, the ordinary rules of the House would be applicable and that is fine. If they are not, I think the Standing Orders themselves can suffice to indicate when the document becomes a public document.

The only issue I think is that, for the sake of transparency, sometimes it is helpful to have it in legislation as to when a matter becomes a public docu-

ment. Nevertheless, if the convention of the House can be followed, namely when something is laid on the Table, it becomes a public document. That is perfectly adequate. That is a Parliamentary convention all over the world which would be constitutionally appropriate.

Mr. V. Arden McLean: Madam Chairman, if I may.

The Chairman: Please proceed.

Mr. V. Arden McLean: If we repeal 62 under clause 6A(3) in the amendment No. 2 where it says that the Public Accounts Committee shall make its report upon the Auditor General's report within three months of the committee's receipt, and both the committee's report and the Auditor General's report shall be laid on the Table of the House at the same time. With a little amendment to that section I think it will suffice.

The Chairman: Honourable Second Official Member, is it not the case that if 60(2) was actually repealed then we could rely on the Standing Orders and there would no longer be a need for 6A? If that is the case perhaps an amendment could be put to that effect.

Hon. David F. Ballantyne: I agree, Madam Chairman. I think the answer would be that where it says 6A we could leave that Committee Stage amendment. The principle Law is amended in section 60 by repealing subsection 2, full stop. That is all that would be necessary. Then the balance of this procedure would be dealt with by the relevant Standing Orders and that would be consistent with the House regulating its own procedure.

Mr. Alden M. McLaughlin, Jr.: Madam Chairman.

The Chairman: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: I certainly agree with all of that, but do we not have to move a Committee Stage amendment to give effect to that?

The Chairman: That is what I basically put, but it has not actually yet been done. Thanks for the re-emphasis.

Will it be moved by the Honourable Third Official Member?

Hon. George A. McCarthy: Yes, Madam Speaker. I so move that we proceed as outlined by the Honourable Second Official Member.

[Laughter]

The Chairman: Is that a delegated motion?

Perhaps we can ask the Second Official Member, without being facetious, to move the Motion.

Hon. George A. McCarthy: Madam Chairman, can I seek the leave of the chair for a...

The Chairman: I think for us to get the procedure correct we need to basically withdraw the recommittal of clause 6.

Motion to withdraw amendments to new Clause 6A and to recommit new Clause 6A again

Hon. George A. McCarthy: Madam Chairman, I move the withdrawal of the recommitted 6A.

The Chairman: The question is that the recommittal clause 6A be herewith withdrawn.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 6A has been withdrawn.

[Inaudible comments]

The Chairman: Honourable Third Official Member.

New Clause 6A Recommitted

Hon. George A. McCarthy: Madam Chairman, in accordance with the provisions of Standing Orders 52(1) and (2), I give notice to move the following amendment to the Public Management and Finance (Amendment) Bill, 2002, that the Bill be amended as follows: "Clause 6A. The principal Law is amended in section 60 by repealing subsection (2)."

The Chairman: The amendment has been moved. Does any Member wish to speak thereto?

The question is that the amendment stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment passed.

The Chairman: The question is that Clause 6 as amended stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: New Clause 6A passed.

The Clerk: A Bill for a Law to Amend the Public Management and Finance Law, 2001

The Chairman: The question is that the Title do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: The question is that the Bill be reported to the House.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: That the Bill be reported to the House.

House resumed at 7.39 pm

The Speaker: Please be seated. Proceedings are resumed.

REPORT ON BILL

The Public Management and Finance (Amendment) Bill, 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I am to report that a Bill entitled The Public Management and Finance Amendment Bill, 2002, was considered by a committee of the whole House and passed with amendments.

The Speaker: The Bill has been duly reported and is set down for a Third Reading.

THIRD READING

The Public Management and Finance (Amendment) Bill, 2002

The Speaker: May I have a motion for the suspension of Standing Order 47?

Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to move the suspension of Standing Order 47 to allow

for the Public Management and Finance Amendment Bill, 2002, to be given a Third Reading.

The Speaker: The question is that Standing Order 47 be suspended.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Standing Order 47 suspended.

The Speaker: Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to move that a Bill entitled the Public Management and Finance (Amendment) Bill, 2002 be given a Third Reading and passed.

The Speaker: The question is that a Bill shortly entitled the Public Management and Finance (Amendment) Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: The Public Management and Finance Bill, 2002 given a Third Reading and passed.

The Speaker: May I have a motion for the adjournment.

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, I am very pleased to move the adjournment of this Honourable House until 10 am tomorrow morning. The Honourable Third Official Member will move the Budget Address, the Appropriation Bill and the Leader of Government Business will present plans on the refocusing of the Financial Services and new business plans and policies of the Government.

The Speaker: The question is that the House do now adjourn until 10 am tomorrow, 8 November.

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

Ayes.

The Chairman: The Ayes have it.

At 7.41 pm the House stood adjourned until 10 am Friday, 8 November 2002.

OFFICIAL HANSARD REPORT
FRIDAY
8 NOVEMBER 2002
10.15 AM
Fourth Sitting

The Speaker: I shall now invite the Second Elected Member for the district of George Town to grace us with Prayers.

PRAYERS

Mr. Alden M. McLaughlin, Jr.: Let us pray.

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

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

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

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

Proceedings resumed at 10.19 am

The Speaker: Please be seated.

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

Apologies

The Speaker: I have received apologies from the Honourable Minister responsible for Education who is

off the Island on Government Business until the 18 November.

**PRESENTATION OF PAPERS
AND OF REPORTS**

The Annual Plan and Estimates for the Government of the Cayman Islands for the Six Month Financial Year ending 30 June 2003 together with the Annual Budget Statements for Ministers and Portfolios for the Six Month Financial Year ending 30 June 2003.

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to lay on the Table of this Honourable House the Annual Plan and Estimates for the Government of the Cayman Islands for the Six Month Financial Year ending 30 June 2003 together with the Annual Budget Statements for Ministers and Portfolios for the Six Month Financial Year ending 30 June 2003.

The Speaker: So ordered. Do you wish to speak thereto?

Hon. George A. McCarthy: Madam Speaker, when I move the Second Reading to the Appropriation Bill.

GOVERNMENT BUSINESS

BILLS

FIRST READING

The Appropriation (January to June 2003) Bill 2002

The Speaker: The Bill is deemed to have been read the first time and is now set down for the Second Reading.

SECOND READING

The Appropriation (January to June 2003) Bill 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to move the Second Reading of The Appropriation (January to June 2003) Bill 2002.

The Speaker: Please continue.

BUDGET ADDRESS

Hon. George A. McCarthy: Madam Speaker, it is my privilege to deliver my budget statement for the 2003 Six Month Financial period on behalf of the Government. This short budget period, which we are calling the 2003 half financial year, is to allow for the Government's financial year to move to a 30 June balance date in accordance with the provisions of the Public Management and Finance Law 2001.

Madam Speaker, this Budget is a landmark budget which presents not only a coherent set of government policies and an excellent fiscal position but also marks the beginning of a new approach to public management in the Cayman Islands.

It also marks a change in the way the Budget will be presented to this Honourable House. As part of that change I will provide an overview of the Budget and outline the economic and fiscal strategy on which it is based.

The Honourable Leader of Government Business, who has been actively involved in the development of the budget, will move the motion for deferral of the debate and then provide Members with more details about the policy initiatives contained in the Budget and the United Democratic Party's Government policy plan.

The Government understands that the future economic and social prosperity of our country depends on an ongoing level of economic growth. As a small country heavily dependent on the external economy, our growth rates are strongly influenced by factors outside our control. However, there are still many ways in which we can support our own economy, and this is a responsibility that the Government and the community, particularly, the business community must share.

For its part, the Government recognises that one of the most important things it can do is ensure that it operates in a fiscally responsible and well-managed manner. Accordingly, the Budget has been prepared on the basis of five-key fiscal policies.

No New Revenue Measures

The Budget does not require or assume any new revenue measures but does allow for increases in revenue as a result of changes in economic activity.

Expenditure Growth

Expenditure growth has been constrained so that aggregate operating expenditure for the half year is less than that budgeted for the first half of 2002 and less than the amount actually spent in the first half of 2001. The Budget forecasts an operating surplus of \$43.1 million. Some of this is used to fund capital expenditure and other balance sheet activity resulting in

an overall surplus for the six-month period of just over \$22 million. The size of this half-year surplus is no accident. It has been deliberately budgeted for and will be retained so that it can be used to fund Government expenditure in the first half of the 2003/2004 financial year when traditionally expenditure exceeds revenue.

No New Borrowings

The Budget includes no new borrowing and makes provision for the repayment of \$4.6 million in existing public debt. This results in a reduction in the overall level of public debt for the first time in a number of years and a projected debt to revenue ratio of 4.8 per cent.

Projected Surplus

The projected surplus together with a forecasted overall surplus for the current 2002 year of around \$28 million means that the total cash balance of the Government, as at 30 June 2003, are projected to be \$60.5 million. This equates to 78 days of operating expenditure at 2003 budget levels, which is getting close to the required 90 days. Achieving this fiscal result has required significant fiscal discipline, but Government recognises that controlling the fiscal position is the single most important thing that it can do to assist the economy. Good government, however, involves more than good fiscal performance. It requires coherent, well-coordinated policy across the whole range of government activity. It also requires those policies to be implemented well and as efficiently as in the private sector. In short, it requires government to manage itself well. International research has shown that the difference between a poorly managed government can be as much as 2 per cent of GDP.

The Government has a number of initiatives currently under way which are designed to improve its management performance. Key among these is the financial management initiative which is bringing a much more strategic and coherent approach to government decision making. The budgetary aspects of the reform have had a major positive influence to the process for this current budget, and the fiscal result I have already outlined. I will talk more about the benefits of financial management initiative in a moment.

Two other related public management reform program are also in progress. The first of these is a comprehensive redesign of the government personal management system. This will create greater flexibility for managers and improved incentives to perform while providing adequate protection for staff and managers alike. The Government has approved the broad design for this reform and expects to bring a Public Service Bill to this Honourable House during 2003. Extensive consultation with civil servants and the Civil Service Association will occur as part of the development of legislation.

The Government is also planning a machinery of government change to improve the way it develops, coordinates and implements strategy. A new ministry will be established to service and support the Leader of Government Business, Chief Minister and Executive Council. Modelled loosely on the UK office arrangement, the new ministry will include a policy co-ordination unit which will be responsible for providing advice to the Chief Minister and Executive Council on government-wide policy issues, coordinating the development of the government policy initiatives among Ministries and Portfolios and monitoring policy implementation and achievement.

In addition to these new public management initiatives, the Government is continuing its efforts to clarify its different roles as regulator, service provider and owner. This can be seen in a number of areas including the financial services sector, where the Government is separating its regulatory and ownership interest and providing the Cayman Islands Monetary Authority with greater regulatory independence. It is also a major part of the government's health sector reform where the establishment of the Health Services Authority has made much clearer what health services the Cayman Islands is paying for, what risks it faces as owners of the Authority and what arrangements are necessary for the regulation of health sector more generally. As a result, a number of new regulatory measures are now being taken including: the licensing and inspecting of health facilities; the registration and regulation of health practitioners; the appointment of a chief medical officer of health to oversee this regulatory activity; and the appointment of a third party administrator to negotiate with overseas health care providers, process claims and collect health care statistics.

International public management reforms have shown that a greater understanding of the government's various roles can make a significance difference to government performance, and our experience to date has shown that is true in Cayman also. These two strategies, fiscal prudence and improving the way the government manages itself, are key features of this Budget—a budget which contains information very different from any previous represented to this Honourable House, and a budget prepared for the first time in accordance with the design of the Financial Management Initiative.

*The Budget is more than just an FMI
Implementation Step*

Madam Speaker, in 1998 the government announced what has become known as the Financial Management Initiative (FMI) to improve the way in which the government manages its finances. In September 2001 this Honourable House enacted the Public Management and Finance Law which provides for the legislative guarantee for the reform. Implementation of FMI is occurring in three phases: first, the move

to new budgeting and reporting arrangement; secondly, the move to new accrual accounting; thirdly, the designation of greater input, decision-making authority to chief officers of government ministries and portfolios. The 2003 half-year budget signifies the accomplishment of the first milestone.

*A new Performance Base Approach to
Government Budgeting*

It is a very significant achievement and is probably the single most important part of FMI reform. It represents a landmark change in the management of finances in this country.

The New Budget Approach

Madam Speaker, the new budget approach has two distinct elements. The first is a strategic approach to planning and budgeting that is required. In accordance with the Public Management and Finance Law, the Government prepared the first ever strategic policy statement that was tabled in this Honourable House in July of this year. The statement outlined the outcome goals on financial parameters on which the 2003 half-year budget has been prepared. In doing so it, signalled a new strategic orientation to budget that focuses on the strategic big picture rather than the minutia of detailed line items.

The strategic policy statement detailed what the Government was seeking to achieve in broad policy terms and fiscal targets for revenue expenditure, operating surplus, balance sheet flows and overall surpluses sought to be achieved with its budget.

The top-down approach is something that Honourable Members of this House have been seeking to achieve for many years. It is my hope that in future years, as the new strategic phase of the budget process develops this House will have an opportunity to debate and endorse the strategic policy statement for the forthcoming year.

The second element of the new budgeting approach involves new documentation which focuses on actions the Government intends to take to achieve its outcome policy goals. These actions will fall into twelve categories as follows:

1. The Law or amendments to existing Laws that the Government intends to introduce to this Honourable House in the new financial year to support its strategic priorities.
2. The outputs the Government intends to purchase from ministries, portfolios, statutory authorities, government companies and non-government output suppliers such as Red Cross, churches and sport bodies.
3. The transfer it intends to make to support those persons in need.
4. The financial payments it intends to make to cover the interest on existing government debts.

5. Other operating expenditures the Government intends to make including payments to Members of this Honourable House and the Judiciary and membership subscriptions to various international organisations.
6. The capital acquisition development expenditure the Government intends to make.
7. The sale or disposal of major assets the Government plans to undertake.
8. The equity investments the Government intends to make into statutory authorities, government companies and other organisations in which it has ownership interest.
9. The loan the Government intends to provide to organisations or individual persons.
10. The borrowing the Government intends to undertake, which in 2003 half year is nil.
11. The new guarantees the Government intends to issue which in 2003 half-financial year, again, is nil.
12. The changes in course of revenue rates the Government intends to make which, again, in 2003 financial half year is nil.

Madam Speaker, each of these actions is listed in detail in the new budget document, the Annual Plan and Estimates. More information about the detailed performance expected of each ministry and portfolio is provided in the accompanying Annual Plan and Estimates. In future years, detail performance information for statutory authorities, government companies and non-governmental output suppliers will be provided in purchase agreements and/or ownership agreements for those bodies which will also be tabled in this Honourable House at the time of the annual budget.

The new documentation provides an unprecedented level of transparency about planned government performance for the new financial year, not just financial performance as in the past but also the specific policy actions the government intends to take and the cost of each of these policies. It is a development which allows the public a much greater understanding of what the Government is doing on their behalf, thereby, allowing much greater public involvement in government decision-making. Transparency brings with it a requirement for the government to be disciplined in both its fiscal and overall policy framework. This is an immediate benefit of the reform that we are seeing in this Budget.

The aggregate fiscal amounts in the budgets are very similar to the targets established in the strategic policy statement which, as I mentioned, was tabled in this Honourable House in July of this year. This is a very good result and reflects not only the benefit of setting financial parameters up front and the pressure of transparency in budget decision making but also the determination of government to produce a budget that is fiscally responsible—one that complies with the principles of responsible financial manage-

ment and one that allows for net reduction in government borrowing.

Madam Speaker, the change in the budget approach is accompanied by a change in the appropriation system. As from this budget, this Honourable House will be requested to appropriate on an output rather than on an input basis. This change will allow for this House to explicitly consider and debate the specific policy actions the Government is planning to take in the 2003 half-financial year, and then appropriate money for use in delivering each of those outputs, transfer payments, et cetera.

This new appropriation approach will clearly change the way in which the budget debate and Finance Committee deliberations operate. No longer will we be concerned about the detail-line items and how much will be spent on different inputs. Instead, we will be considering whether the outputs, transfer payments and other interventions, and the amount to be spent on each one are acceptable. In short, we will be able to focus deliberately and explicitly on policy rather than having to extract probable policy intent from a vast amount of financial data as in the past.

Madam Speaker, there are a number of other immediate benefits flowing from the new budget process and documentation provided to the House today. An issue close to my heart as Financial Secretary is the financial rigour that the new approach has brought to the new budget process.

The establishment in the strategic policy statement of operating and balance sheet financial allocations for each minister and official member has immediately improved the degree of fiscal control the Government has been able to exert over budgetary decisions. The allocations have meant that each ministry and portfolio has had a financial target to work towards. This has resulted in a weakening of the long-held cost-plus mentality whereby ministries and portfolios expect an automatic increase in their budgets if they want to employ more staff or if their costs increase. The financial allocations mean that extra costs are no longer a justification for additional budget allocations. Rather, each minister or official member and their ministry or portfolio has had to find efficiency savings to fund their desired new expenditure or reprioritise expenditure to make it fit. While much can be done in this area, demonstrable gains have been achieved in the first year.

Secondly, as part of the budget, a significant number of costs which were previously paid for centrally have been decentralised to ministries and portfolios. These include accommodation costs, insurance and various personnel costs. Further, decentralisation is planned for next year.

The decentralisation has had two important benefits. Firstly, it allows us all to see what the new cost of each ministry and portfolio and each of their output really is. Over time this will allow valid comparisons to be made between ministries or portfo-

lios and comparable private sector organisation(s) in other countries. This will allow us to determine the efficiency of our government agencies in a relatively objective way.

The second benefit of decentralisation is a behavioural change that has been evident. When costs are borne by someone else there is very little incentive to manage or control costs. Even with the limited decentralisation that has occurred, we are already seeing Ministries and Portfolios questioning these costs and seeking new ways to minimise them.

The budgetary focus on outputs has resulted in a third group of immediate benefits. Now that we have defined the outputs or transfer payments that lie behind what we used to call grants and subsidies, some new questions are beginning to be asked. These include questions like: Why is the Government buying this output at all? or Why is the quantity is so small for the price we are paying? or Is the Government paying for the services that are already being paid for by someone else? Over time the new information will encourage better targeting of Government support and greater ability to determine whether the Government is getting value for money.

The fourth set of initial benefits flow from improved financial disclosure. From the 2004/2005 financial year the Annual Plan and Estimates will include a set of full accrual-base financial statements. As in interim steps towards this, the cash-base financial statements included in the 2003 half-year budget have been prepared on a new basis which is more consistent with our future reporting approach. In particular, the financial statements included in the Annual Plan and Estimates separate operating expenditure from capital and investing expenditure. This operating versus balance sheet distinction is at the heart of the accrual accounting system. Making the distinction this year, even if only on a partial basis, has already improved the quality of financial disclosure.

Readers can now see from the financial statements in part (c) of the Annual Plan and Estimates what the operating revenue expenditure and surplus are before the impact of balance sheet activities is included.

The operating numbers reflect the true underlying financial flows of Government for the year. They are not clouded by impact of borrowings, the carrying forward of cash balance from previous years or transfer of money between funds and reserves. None of these latter items relate to the financial operations of the period, and are therefore not included in the operating surplus.

Put another way, the operating surplus reports for the first time a true operating result which, albeit on a cash basis, is broadly comparable with the profit or loss of a company and which is compiled on a basis that private sector accountants and financial analyst can understand. However, balance sheet flows such as loans made, borrowings, equity investment, capital acquisitions, capital development and

the disposal of government asset are still important financial flows for government. These are recorded on a separate statement in part (c) of the Annual Plan and Estimates.

This statement shows how the surplus cash generated by the operating surplus is used in the balance sheet activity. The sum of the operating surplus and balance sheet activity is reflected in the overall surplus, which is separately reported at the bottom of the statement. The cash balances held by government are reported in a separate financing and reserved statement. This shows the total level of cash projected to be held by the government and the various bank accounts, reserve and funds to which it relates.

In the 2003 half-financial year a significant amount of cash will be held in the general bank account and retained for working capital as cash flows of the government are uneven across the calendar year. The new financial statements are an interim step in the move to accrual accounting, but they provide significant the better financial disclosures than in the past. Madam Speaker, not only is this good for transparency but it provides much better information for fiscal and budgetary decision making by both the government and this Honourable House.

As Members of this Honourable House can see, this budget is a major step in the implementation of the financial management initiative. However, it is more than that. It is a budget that provides an unprecedented level of transparency and decision-making information. It is a great honour and privilege to at last being able to present such a budget to this Honourable House and the country today.

Overview of the New Budget Document

Madam Speaker, as the new budget document is quite different from that in the past, I would like to provide Honourable Members with a short overview of the two budget documents: the Annual Plan and Estimates and the Annual Budget Statements.

The Annual Plan and Estimates is the main budget document and comprises three parts:

Part (a) is the government's annual plan which, in this case, covers the six months' transitional financial year from 1 January to 30 June 2003.

Section 2 of the plan outlines the government's broad outcome policy objectives.

Sections 4 through 9 then specify detail actions the government plans to take to contribute to those outcomes. Those actions fall into twelve categories I outlined earlier. The largest of these categories, which makes up 90 per cent of the total operating expenditure, is the output the government intends to purchase.

Section 3 links the outcomes and outputs by providing a summary of the various policy actions for

each broad outcome. I expect that Members will find section 3 a particularly useful part of the document.

Section 10 provides the summary forecast financial statements and an analysis of revenue expenditure and the balance sheet activity which make up the budget forecast.

Section 11 provides a comparison of the budget forecast with the parameters established in the strategic policy statement and with the principles of responsible financial management required by The Public Management and Finance Law.

Part (b) is the estimates. This part outlines the various appropriations this Honourable House is being asked to provide for in the Appropriation Bill. These appropriations cross-reference to the policy actions specified in part (a). Part (b) also specifies other items which require explicit Legislative Assembly approval, most notably changes in rates of coercive revenue and new guarantees, neither of which are being requested as I mentioned earlier for the 2003 half-financial year.

Part (c) provides detail financial statement for the Government for the 2003 half financial year. It is these statements that are summarising part (a). These statements have been prepared on the new basis I outlined earlier. Reference materials, including a glossary of new terminologies, are provided in the appendices to the document.

The second and larger of the new budget documents contain the Annual Budget Statements. These contain the detailed budgets for each ministry and portfolio. The annual budget statements list, at a more detailed level than the Annual Plan and Estimates, the output that Executive Council plans to purchase from Ministries and Portfolios. They also specify the nature and scope of the business of each agency and their key strategic goals from an ownership perspective.

Finally, the annual budget statements report details of the other dimensions of ownership performance. These are financial performance, human capital performance, capital acquisitions and risks to be managed. There is also a summary of manpower establishment.

Madam Speaker, let me now return to the substantive content of the Budget, in particular, the key policy initiatives that are included. In line with the new budgeting approach I will outline those initiatives in the context of the broad outcome to which they relate.

Broad Outcome 1 – A Strong Economy

Outcome Goal 1 is to promote a vibrant growing economy that provides opportunities for all. The modest rate of growth in the Cayman Islands economy during 2002, resulting predominantly from external events makes this even more important. In addition, to the good fiscal position a number of budget initiatives have been developed to stimulate and sup-

port economic growth. Planned regulatory actions involved in the introduction of several new laws include laws to establish the Cayman Islands Shipping Registry and as a statutory authority and to implement international shipping conventions. The new laws are designed to enhance the country's reputation as a shipping registrar. Updates to various financial services law to encourage appropriate market behaviour; amendments to the planning law and regulations to incorporate likely changes from the review of the development plan.

In relation to the financial services sector, it is general knowledge that the sector has had to contend with a seemingly endless array of international initiatives promulgated by various organs of the G-7 States.

The Cayman Islands have striven to maintain a policy of constructive engagement in respect of these initiatives. Among other things, this has required participation in a considerable number of overseas discussions by senior government officials, particularly, the Honourable Leader of Government Business. Such involvement is essential if our position is to be effectively represented. This level of commitment is also likely to be necessary next year and beyond.

Our involvement in these discussions should not obscure the fact that our policy is based on a key non-negotiable objective, that is, the protection of the economic interest of the Cayman Islands. Cayman is prepared to support international initiatives that are sensible, fair and inclusive but not those that impose arbitrary and disproportionate burdens on certain members of the global community to the commercial benefit of an unfairly protected class of others.

Madam Speaker, in short, all countries engage in the cross-border provision of services should have to follow the same rules. This message, by no means exclusive to Cayman, has had varying receptions and we have not always had the option of refusing to engage but we are determined to hold our own.

Our anti-money laundering framework has now been extensively reviewed by both the FATF and the CFATF with the result that we have been judged compliant with international standards. We know that standards develop over time; but until such time as new standards in this area merge via legitimate process we do not propose to be subject to any further external reviews on that head.

Any time spent domestically on anti-money laundering issues will be to ensure that we are discharging the obligations we have accepted in an effective and efficient manner. Efficiency is important as requirements that have little or no anti-money laundering value needlessly drive up compliance cost.

As part of another regulatory initiative, the Government is in the final stages of negotiations with Cable and Wireless over liberalisation of the telecommunication sector. In a globalised world an efficient supply of telecommunication services is indis-

pensable to financial services, tourism, real estate, construction, utilities, wholesale and retail and other business sectors. When implemented, liberalisation is expected to have significant, positive impact on all business sectors. Reduction in telecommunications costs are expected in all major areas including Internet service, international direct dialling and mobile services. This will allow the Cayman based businesses to improve their international competitiveness. Liberalisation will also allow businesses to access cutting edge technology. This will open up new business opportunities in a variety of telecom-related areas and in e-commerce.

The Budget also provides for the funding of a wide range of outputs designed to promote a strong economy. These include outputs designed to promote and regulate the financial services sector, outputs designed to promote and support the tourism sector, outputs designed to promote and support other important economic areas such as shipping and agriculture sectors, outputs to support new business development, outputs to support labour market, outputs relating to the provision of national economic infrastructure and general market regulatory outputs.

In tourism, which has suffered greatly from the events of 9/11, the Government will target its efforts strategically on raising the level of stay-over visitors. A \$1.5 million television advertising campaign will be mounted in the United States national cable networks including MSNBC and the Travel Channel. This will include fifteen-to-thirty-second ads ranging from seven to thirteen weeks.

Another key new initiative is the purchase of outputs to support new business development. This includes promotion of sustainable inward investment through a new Cayman Islands Investment Bureau based here and represented in the Americas and Europe. The bureau will promote investment in Cayman Brac and Little Cayman, as well as Grand Cayman.

Madam Speaker, the total operating expenditure included in the Budget and relating to Outcome Number 1 is strong economy, amounts to \$27,694,000. In addition to this operating expenditure, the Government will make a number of balance sheet expenditures designed to support economic growth. It will continue to provide ownership support to Cayman Airways and Cayman Islands Development Bank. The Budget makes provisions for equity injections totalling \$2,500,000 into these two organisations.

Major plan capital developments to support economic growth under Outcome 1, which is a strip to promote a strong economy, include initial work on a tourism hospitality centre, renovations of the craft market and development of the roading infrastructure through the construction of new roads or improvements to existing roads totalling \$2,695,000. In addition, Government's new office accommodation on Elgin Avenue is planned to proceed in 2003. This will consist of two seven-storey buildings with an esti-

mated 168,000 sq ft of floor space and a multi-storey car park. This project will bring numerous economic benefits to the Cayman Islands during the construction phase in 2003. Over one hundred persons will be employed in various skill groups from local construction industry network. In addition, Government will ensure that the services of local businesses, particularly small and medium size enterprises, will be used. This project will have spin-off benefits in other segments of the economy.

Broad Outcome 2 – Healthy and Socially Protected Resident Population

The Government recognises that a vibrant economy is not an end in itself. It is also important that all residents have access to high quality health care and appropriate social services. Accordingly, the Budget includes a range of measures designed to support this goal. A number of legitimate measures aimed at improving health status of residents are planned. These include:

- o revisions to the Tobacco Products And Intoxicating Liquor Advertising Law to tighten the requirements;
- o a new pesticides to establish a regulatory scheme to control the importation and use of pesticides;
- o revisions to the mental health law to update it to reflect current international practice and new regulations to improve arrangements relating to environmental health services, food hygiene and safety and drinking water quality.

In addition, new regulatory arrangements for health sector I have outlined earlier will be implemented. Health related outputs to be purchased during 2003 half year include: provision of primary and secondary health care for entitled persons, indigents, children, veterans, seamen, prisoners, global, tertiary, emergency medical care for entitled persons, the medical service for Cayman Brac and Little Cayman, drug abuse and substance prevention programs, environmental health output including food hygiene inspections, the collection and disposal of waste and mosquito control services.

Major plan capital expenditure includes equity injections of \$2,178,000 for the Health Services Authority to finance the purchase of a new computer system and capital works on Faith Hospital and Little Cayman Health Clinic. In addition, the Government will provide ownership support to the Health Services Authority of \$2,300,000 by way of further equity investment. This is a transitional deficit support payment that will be gradually phased out by the 2004/2005 financial year when the Authority is expected to be financially self-sufficient.

In relation to social support, new legislative measures include revisions of the Children's Law, Maintenance Law and Adoption Law. Key social support outputs to be purchased include diversion and

rehabilitation outputs including the Cadet Corps Training Programme, the CIMI Youth Rehabilitation Programme, pro-social activities and role modelling for youth and the provision of social services including services to families, support for battered women and children and care of the indigent, elderly and disabled persons. The operating expenditure allocated for achieving Outcome Number 2, a healthy and socially protected resident population, is \$26,700,000. This includes transfer payments amounting to \$5,681,000.

Broad Outcome 3 – A Strong Caymanian Community and Culture

The Government is keen to see a strong culture and community structure in our country. Accordingly, the Budget includes funding for output to encourage and support cultural and community development. These include:

- the organisation of the Quincentennial Celebration, the organisation of annual festival and events, including Pirates Week, Batabanoo and the annual fishing tournament and the Miss Cayman Pageant,
- the preservation and management of the National Archives, the launch of a new history of the Cayman Islands, public access to museum and art collections, the production of national festival and stage productions, training and support of local artists and the development of the music standards for the local industry,
- the construction and maintenance of community recreational and sports facilities, the provisions of various sport programs,
- sport coaching and training, the hosting of the regional and inter-primary athletic competition, travel support for national football team and the Sports Ambassador Programme.

The operating expenditure relating to this outcome is \$4,025,000.

In addition, a number of capital development initiatives will be funded including a new library facility in George Town, extension of the National Archives building and renovation work at the West Bay Town Hall for the establishment of a district library, and at the South Sound Community Centre.

Broad outcome 4 – Protect the Environment for the use by both Current and Future Generations

Our environment is a unique and precious resource that the Government believes must be protected for both current and future generations. The Budget provides funding for a range of outputs designed to protect and enhance the environment. These include:

- preserving and supporting historical and environmental sites,

- environmental awareness public education programs, monitoring the status of the national environment, aqua-culture species enhancement programs, enforcing The Marine Conservation Law,
- the installation and maintenance of marine park, markers and signs, supporting the operation of the Queen Elizabeth II Botanical Park and beautification programs provided by the Community Development Action Committee.

Budget operating expenditure allocation to this outcome is \$1,002,000. In addition, some new environmental related capital development projects are planned including developing the Barkers Environmental Park.

Board outcome 5 – A Well Educated and Vocationally Trained Resident Population

Our country's future is heavily dependent on the educational levels and vocational skills of our work force. With this in mind, the Government will continue to invest in the educational status of our young people. The budget provides for \$21,648,000 of operating expenditure to purchase or support pre-school, primary, secondary and tertiary education and other educational related programs. Other key actions provided for in the Budget include under this Outcome Number 5: scholarships and bursaries to support local, international tertiary study, site preparation work for a new primary school at Spotts and planning and design work for a new secondary school in Grand Cayman.

Broad Outcome 6 – A Safe and Secure Country for Residents and Visitors

Safety and security is another high priority for the Government and is a matter of concern to all residents and visitors alike, especially in the current international environment. The Budget includes operating expenditure of \$26,184,000 relating to this outcome. This expenditure will fund outputs to border control including immigration control, customs processing and inspection of passengers and cargo, and patrolling of coastal waters. Outputs relating to crime prevention, promotion, police patrolling, investigation of crime, criminal prosecution and support for the Judiciary. Outputs relating to the safe and secure custody of prisoners and the supervision of offenders during community service. Emergency service outputs including emergency fire services, emergency preparedness activities and 911 communications. The key capital development projects relating to this safety and security outcome involves initial work on the Wilderness Institute facility which will be an alternative to prison for some youth who would otherwise be sentenced to Northward Prison.

Broad Outcome 7 – Citizens participation in Democratic Government

The Government recognises that the historical lack of information about Government activities has been an obstacle to citizens participation in decision making of government. In the 2003 half year, two initiatives designed to address this issue will continue. The first is the next stage in the implementation of the financial management initiative which will see regular reporting to the Legislative Assembly and the public against the 2003 half year Annual Plan and Estimates presented today.

The Second is the freedom of information reform which is to be progressed. When implemented, this will provide significantly better public access to government information.

General Government Services

In addition to the seven broad outcomes the Budget also provides \$32,545,000 of funding for outputs necessary for the day-to-day functioning of the public sector. These general government services include:

- Support to His Excellency the Governor, Official Members and Ministers in the form of policy advice, legal advice, administrative servicing of individual Official Members and Ministers and Executive Council.
- Legal representation and the drafting of legislation, personnel services for government including the management of Public Services Pension, Government information Services;
- Management of government finances including economic forecasting, whole of government budgeting and accounting, debt and revenue collection, and co-ordination of insurance policies and claims;
- Governance and secretarial support for government companies, statutory authorities and government appointed boards;
- Management and maintenance of government property;
- Provision of government computing and IT systems;
- Provision of government services in Cayman Brac and Little Cayman.

Major general government capital developments provided for in the Budget include:

- Upgrading the government's computer services network to improve disaster recovery and security tolerance in the main servers;
- Renovations to the Government Administration and Tower Buildings and other existing accommodation;
- Initial project work on the new government accommodation buildings.

Fiscal and Economic Outlook

The financial forecast provided in the Budget for the current 2002 financial year indicates an operating surplus of around \$40.5 million, down \$5 million from the 2002 Budget forecast. However, the overall surplus for 2002 is forecast to be just \$28 million, which is \$17.3 million better than the budget projections, mainly as a result of better than forecasted repayments of debt during the year to date.

Financial Forecast for the 2003 Half Year

Madam Speaker, the Budget's fiscal position is reflected in the financial forecast for the 2003 half financial year. This shows cash operating surplus of \$43,104,000, a deficit on balance sheet activity of \$21,061,000 and an overall surplus of \$22,043,000. As the forecasts are only for a six-month period and the Government's cash flows are uneven across the year, comparisons with previous years are not easily made. However, the overall forecasted half year surplus is equivalent to a modest surplus in a full year.

As far as revenue is concerned, the Government expects to collect approximately \$184.3 million in revenue in the 2003 half financial year. This is similar to the revenue collected for the equivalent period in 2002 and is a 10 per cent increase over the first half of the 2001 financial year. This reflects the revenue measures introduced in the 2002 Budget and the effect of economic growth over the last two years. Total operating expenditure is forecasted to be \$141,141,000 in the 2003 half year financial year. This is \$3.2 million, or 2.2 per cent, less than the expenditure for the first half of 2001 and reflects the Government's ongoing tight control on expenditure.

Total budgeted balance sheet expenditure for 2003 half financial year amounts to \$16,303,000. This is comprised of \$1,596,000 of capital acquisitions, \$7,359,000 of capital development, \$7,099,000 of equity injections and a small amount of loans made. The forecast allowed for public debt repayment of \$5,453,000 and no new borrowing resulted in an overall reduction in the net public debt of the same amount.

The overall surplus of \$22,043,000 will be retained for working capital purposes and used to fund Government expenditure in the first half of the 2003/2004 financial year when, traditionally, expenditure exceeds revenue collected. The retention of this surplus also helps the Government's overall cash position. The level of cash balances as at the 30 June is projected to be \$60,553,000. This total includes cash held for reserves and funds, so the forecast general or unrestricted cash balance will be \$32.3 million.

The overall cash balance equates to 78 days of operating expenditure at 2003 half-year levels. While this is still less than the 90 days required by the principals of responsible financial management, it is

significantly better than previously when it had been at levels of only a few days. Compared to the targets established in the strategic policy statement, operating revenue and operating expenditure are both more than the strategic policy statement targets. However, these differences mostly net out so that the operating surplus is only slightly less than target.

Net balance sheet activity is also slightly less favourable than target due to additional equity investments for the Health Services Authority. The effects of this increase injection have been mitigated to some considerable extent by the reductions in capital acquisition and development expenditure compared to target. The overall surplus for the 2003 half financial year is around \$4 million less than the target. However, it is still at a level that is expected to provide adequate working capital to fund expenditure in the first half of the 2003/2004 financial year.

In relation to the principles of responsible financial management, the budget forecast complies in most respects. The operating surplus is positive as required. The interest and principal repayment on Government's borrowing is 4.8 per cent of revenue, which is substantially less than the maximum allowable 10 per cent.

The total cash balance including cash held in reserves and funds is \$60.6 million which is getting close to the required \$70 million, equivalent to three months or 90 days expenditure. Major risks to the government operations have been identified in the annual budget statements of Ministries and Portfolios for the first time.

Economic Position in 2002

Madam Speaker, before I finish I would like to comment briefly on the current economic situation. Since late 2001 a global recovery has been underway with industrial production and trade picking up across the world. Global growth is projected at 2.8 per cent for 2002, compared to 2.2 per cent in 2001. Looking ahead, the global recovery is expected to continue in 2003, with world economic growth projected to increase from the estimated 2.8 per cent in 2002 to 3.7 per cent in 2003. Importantly for us, the United States' economy is expected to grow modestly from 2.2 per cent in 2002 to 2.6 per cent in the year 2003.

Madam Speaker, the three major indicators of domestic economy, GDP, unemployment and inflation, reveal that the Cayman Islands economy has improved in 2002. Preliminary results from the National Income Survey show a projected growth rate of 1.7 per cent for 2002. This represents a more than doubling of the estimated 0.6 per cent growth rate for 2001.

The unemployment rate also reflects this improvement in the economy. The October 2001 Labour Force Survey conducted a few weeks after the events of 9/11 showed that unemployment had reached 7.5 per cent. The April 2002 Survey showed that unem-

ployment had dropped markedly to 5.7 per cent, and the October 2002 Labour Force Survey is expected to show a further reduction. The inflation rate increased slightly in the first three quarters of 2002 but remains at a modest 2.9 per cent. Our traditional measure of domestic economic activity is generally showing positive signs.

Financial Services Industry

In the first three quarters of 2002 the financial services industry again recorded healthy growth. Mutual Funds continued strong growth of 21 per cent in 2002 with registrations increasing from 3,474 in September 2001 to 4,187 in September 2002. The number of insurance licenses increased from 564 in September 2001 to 605 in September 2002, or by 7 per cent. Another 30 companies are presently under review.

The total number of stock exchange listed issues net of maturities reached 690 compared to 418 as at the 31 December 2001. However, new company registration and class B bank license declined relatively to 2001 figures. Company registration for the first three quarters of 2002 were 5,275, a decline of 21 per cent when compared to the 6,680 new registrations for the same period in 2001. However, the net position is still one of growth.

At the 31 August 2002 for the latest figure available, there were 63,390 companies on the register, a 14 per cent increase over that figure as at the 31 August 2001. The number of bank and trust licenses fell by 18, from 536 in September 2001 to 518 in September 2002. The reductions were primarily in the class B category which was affected by the statutory requirement introduced in 2001 that private banks established physical presence to the degree appropriate to their activities or surrender their license. Despite this fall in license number, total assets in the banking and trust sector rose from \$706 billion in June 2001 to \$980 billion in June 2002.

Tourism Sector

In the tourism sector total tourist arrivals at September 2002 amounted to \$1,416,861. This represented a 23.4 per cent increase over the previous year. All of this increase, however, was due to cruise arrivals since stay-over visitors continued to show a decline. In 2002 the number of cruise ship passengers visiting these Islands passed the one million mark. Whereas in September 2001 cruise ship arrivals were recorded at 881,436, by September 2002 this had increased to 1,183,178, an impressive growth of 34.2 per cent.

Real Estate Industry

The performance of the real estate industry in 2002 has been significantly better than 2001. First and

second quarter results showed a slight recovery while the latest figures at the end of September reflected a marked improvement. Overall, the number of transfers fell from 1591 in September 2001 to 1523 in September 2002. The value of real estate transfers increased by 21 per cent, from \$144.6 million to \$175 million.

The Construction Industry

The construction industry has also showed marked improvements in 2002 with the recovery being led by a number of large prestigious projects in the hotel apartments and commercial segments of the market. Total planned approvals increased by 44.7 per cent from \$120.1 million in the first nine months of 2001 to \$173.8 million over the same period in 2002. The boom in the construction industry has boosted employment opportunities for both skilled and unskilled workers. The April 2002 Labour Force Survey showed a 27.6 per cent increase in the construction employment compared to September 2001.

Economic Outlook for 2003

Madam Speaker, the outlook for the Cayman Islands economy in 2003 is relatively positive. Improvements in the global economy, particularly the United States, will have a positive impact on all the major productive sectors. The Government's control of its own financial position and its various initiatives to support economic growth that I have outlined earlier will also help to raise the rate of economic growth.

The Economics and Research Unit is projecting a 2.3 per cent growth rate for the year 2003, which in the international context is a reasonable increase over the estimated 1.7 per cent for 2002.

Madam Speaker, there is no doubt that the past two years have been very difficult for the Cayman Islands economy. However, we can be optimistic about the positive economic projections for 2003. Nevertheless, there are still plenty of challenges ahead of us. As a country it is important that we focus our energies on the pursuit of greater efficiencies across the entire domestic economy and that we reorient our strategies to take advantage of the new business opportunities emerging from the ever-increasing globalisation of the world economy.

This is not something that the Government, a particular business sector, or an individual business for that matter, can single handedly achieve. Instead, it requires the collective efforts of us all. The Government is doing its part by delivering a responsible fiscal policy by modernising its own management systems and through a range of policy initiatives which I have outlined today and which the Honourable Leader of Government Business will further discuss shortly.

Madam Speaker, I am pleased to recommend to this Honourable House The Appropriation (January to June 2003) Bill, 2002 requesting 338 individual appropriations totaling \$146,600,097.

As is required, The Appropriation Bill does not include statutory expenditure which is covered by other legislation and which relates to debt service payments, pension payments and contributions to The Public Service Pensions Fund, totaling \$11,155,558.

I would like to say thanks to you, Madam Speaker, and all Honourable Members of this House for the opportunity to present this Budget Address for the 2003 half year. May God's richest blessings continue to be bestowed upon these beloved Cayman Islands.

I would also like to take this opportunity to say thanks especially to the Honourable Ministers and Members of Executive Council for working acidulously in the development of this Budget. Particularly, I would like to say thanks to the Honourable Leader of Government Business. I would also like to say thanks to staff within the Portfolio of Finance and Economics, the Deputy Financial Secretary [Mr. Walton], the Assistant Financial Secretaries [Ms. Drummond and Mr. Ken Jefferson] also Mr. Geoff the Director of Budget and Management Services Unit and his team. As well, I thank the various Chief Officers in the Ministries or Permanent Secretaries, Heads of Departments and the Treasury staff members, the staff members in Economics and Statistics and, in fact, Madam Speaker, the entire Civil Service.

The Budget that has been presented today reflects a collective effort of the entire Civil Service and the country as a whole. Madam Speaker, it was a privilege to present this Budget Address to this Honourable House. Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Member.

Motions

Motion to defer debate on the Budget Address

The Speaker: The Honourable Leader of Government.

Hon. W. McKeever Bush: Madam Speaker, I beg to move that the debate on The Appropriation (January to June 2003) Bill 2002, be deferred until Wednesday, 13 November 2002.

The Speaker: The motion has been duly moved. If no Member wishes to speak, I shall put the question that the Second Reading on The Appropriation (January to June 2003) Bill 2002, will be deferred until Wednesday, 13 November 2002.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: That the Second Reading debate on the Appropriation (January to June 2003) Bill 2002 be deferred until Wednesday, 13 November 2002.

The Speaker: The Honourable Leader of Government.

STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF THE GOVERNMENT

A Centre of Excellence for the 21st Century

Hon. W. McKeever Bush: Madam Speaker, we are proud to be a Government that has developed the new Budget framework with its emphasis on outcomes, key policy actions and outputs.

I would especially like to take the time to recognise, with respect and gratitude, the significant achievements of the Financial Secretary, the Honourable Third Official Member, and the leadership he has provided on successive budgets since 1993, bringing us surely and safely to this important maturation of the budget process, and our financial management within Government. We would also acknowledge the presence of his good wife who is here with us today in the Gallery.

Madam Speaker, I have worked with the Third Official Member since 1993. However, in the past year I have had to work very closely with him on the international initiatives and, particularly, the production of this Budget. At all times I found him to be a man of integrity and hard worker for the Cayman Islands, one who like myself refused to bend to the wishes of those who would sink our financial industry. Personally, he has counselled me, prayed with us and at all times displayed a Christian character. He has been there at all times for us and we certainly appreciate his loyalty and having him a part of the team as a dedicated and loyal civil servant.

Madam Speaker, of the seven outcomes at the broad level that have been established for the 2003/2005 period, there is one in particular that I would like to focus on, namely a strong economy that generates employment income and a high standard of living. It is recognised, however, that the seven outcomes are very much inter-related. I would like to highlight the Government's plan of action in the context of this outcome as it relates to the financial services and tourism sectors.

This plan is very much a refocusing and revitalisation effort that seeks to harness our existing fundamental strengths to produce value in a new operating environment. We want to showcase business at its best and maintain the Cayman Islands as a centre of excellence for the 21st Century.

Implementation of the plan will begin in the 2003 half year budget and continue throughout the

period to 2005 as necessary and covers the following areas:

- o Creating international opportunities
- o Dealing with international agreements

The policy objective is to create opportunities from tax information exchange agreements. The Cayman Islands will be considering tax information exchange agreements with a number of OECD countries over the next fifteen months. There is the potential in this context to create commercial opportunities for the financial services sector by negotiating reciprocal benefits for the Cayman Islands that will ultimately enhance market access for Cayman Islands financial services products. In order to capitalise effectively on this potential specialist, public and/or private sector teams for the negotiation of bilateral arrangements will be assembled with teams being tailored to the particular OECD country involved.

International Representation

The policy objective is to enhance the presence and profile of the Cayman Islands in important European and North American centres. Madam Speaker, in order to be effective internationally the Cayman Islands will need to establish enhanced mechanisms for delivering key messages, securing access to key decision makers, and keeping current, un-relevant political and economic developments. This will involve enhancing support resources within the Cayman Islands including building capacity in the Investment Bureau and expanding strategically the operations and number of our overseas representative offices.

The effective use of expert resources in Washington, London and elsewhere will be an essential component of effective international representation, and the Government will seek to enhance and ensure that these resources operate within an integrated and interactive framework —maintaining a responsible institutional and legislative framework with appropriate regulatory services for the financial industry. The policy objective is for sustainable growth and development in the financial services sector that secures the regulatory integrity and commercial appeal.

Madam Speaker, maintaining an appropriate regulatory environment is essential to enable the Cayman Islands to attract and retain the high quality business that is desired. The Government fully recognises the necessity for regulatory authorities that have the tools and the powers to act as guardians of the quality of the industry. In tandem with this responsibility, regulatory policy and procedures must operate in a manner that encourages legitimate businesses to use the Cayman Islands. Specific goals that the Government will set for an effective regulatory service include sound and focused regulatory policies and procedures founded on market awareness and operating within a service base culture with the regulatory authority. Policies and procedures utilised in licensing and su-

pervision of the market that are transparent to the market and consistently applied. Adherence to service performance standards developed and implemented in consultation with the private sector and maintenance of effective statutory consultative processes with key stakeholders.

Madam Speaker, to further promote a sound, regulatory framework that is responsive to the needs of the market, the Government has approved the establishment by the end of 2003 of a Securities Commission. This Commission will assume regulatory responsibility for the Mutual Funds Law, the Securities Investment Business Law and the Stock Exchange Company Law. The establishment of a Securities Commission for Cayman is a natural step in the maturation of the industry that will provide the focus and profile commensurate with the importance and value of the securities sector.

Madam Speaker, the Government will also focus on key entities, such as the general registry, to ensure that it receives the level of investment in human and computer resources necessary to continue to deliver to the required quality of service. In this regard, upgrade of computer systems, approval for additional staff and a re-launch of an improved online facility for the professional clients of the registry are already underway.

Consultative Mechanisms

The policy objective is to enhance product delivery mechanisms and access to business intelligence and business development ideas from the international market.

The international financial services industry is highly competitive. Therefore, effective, consultative mechanisms need to be developed to keep abreast of market trends and to translate good commercial ideas into in-demand products and services that are compliant with recognised international standards. Therefore, the Government will refocus on maintaining a strong partnership with the private sector to facilitate the rapid implementation of new products to ensure that the financial services product portfolio remains competitive.

The Government will establish a high-level policy advisory board similar to the Federal Reserve Advisory Board with international expertise and experience. A well-balanced advisory board will bring a number of important benefits, among them being contacts, expertise, perspective, prestige and strategic input.

The Legislative Framework

The policy objective being to promote a legislative framework that facilitates the expansion of the financial services product portfolio. Madam Speaker, it is imperative that the Government remains proactive in the development of the necessary legislation to en-

sure that the financial services sector remains competitive. Based upon input from the various segments of the industry received to date and subject to further industry consultation, the Government will focus on new legislation in the following initial areas:

- o New corporate products designed for the European, Latin American and Asian markets such as a new foundations law
- o New concessions under the land, holdings, shares transfer law, using licensed Cayman Islands Mutual Funds listed on the Cayman Islands Stock Exchange. Enhancements to the Shipping Registry legislation and general enhancements to the Companies Law including the insolvency provisions.

The Government also recognises that the industry requires certainty on, as well as input into, the legislative framework for tax information cooperation arrangements. This will be addressed very shortly under a process to be developed and managed by the Portfolio of Finance and Economics. The Government will also undertake a comprehensive review of existing policies and procedures affecting the financial services sector with the assistance of specialised technical expertise to ensure that there are no artificial barriers to industry competitiveness.

Red Carpet Reform

The policy objective being to ensure that business focus policies and systems are in place to attract and retain investors, clients, residents and high quality skills that will be of long-term benefit to the Cayman Islands.

Madam Speaker, the Government will develop a new Immigration Law, policies and procedures for implementation in early 2003 designed to encourage high net-worth individuals to invest and become resident in the Cayman Islands, introduce a fast-track work permit procedure for essential, skilled professionals, introduce fair and transparent provisions for the acquisition by work permit holders of permanent residency and introduce equitable provisions to give security to existing long-term residents and persons with Caymanian connections.

The Government is also committed to the implementation of services to be delivered by the Cayman Islands Investment Bureau designed to assist local and foreign investors and other key business personnel in identifying and satisfying the relevant requirements for doing business in the Cayman Islands. Innovations such as the Cay Pass Card have already been introduced for business travellers to the Cayman Islands in the financial services sector and this drive to enhance the experience of doing business in the Cayman Islands will continue.

The Tourism Sector

Tourism and leisure products – the policy objective is to continue to enhance existing tourism and leisure attractions and create innovative attractions that will diversify our tourism product and thereby increase market share and customer satisfaction. Measures in this area will include continuation of the Port beautification and Island-wide beautification programs that will be maintained on an on going basis. Enhancing and protection existing tourist attractions, including a study into measures to protect Seven Mile Beach as a precious resource. Human resources enhancements and the implementation of procedures in conjunction with the airlines, customs and immigration departments to facilitate more efficient processing of arriving passengers.

E-Business

Madam Speaker, the policy objective is to develop a robust offering and targeted strategy to attract and develop a portfolio of blue chip e-businesses.

1. To create new jobs in the e-business sector by attracting 5 per cent of the offshore e-business market:

- to domicile and grow in the Cayman Islands through the development of differentiated e-products
- through the establishment of an e-friendly business environment
- through the implementation of a targeted marketing campaign and by creating an e-business infrastructure that encourages entrepreneurship of Caymanians in the area of e-business
- through the development of e-education initiatives; and
- through the support of the Investment Bureau.

2. To create a local e-business services sector that gives traditional Cayman based businesses a competitive advantage.

Marketing and Incentives

For the financial services developing and undertaking jointly sponsored overseas marketing seminars to generate new business and a system of incentives for the private sector geared to new business volumes. I would like to say, Madam Speaker, the private sector enhanced their business by 30 per cent and we reduced fees by 10 per cent. But that is not in the plan; that is just by the way.

For the tourism sector increasing marketing within key markets, exploring the possibility of facilitating increased high-end, stay-over visitors from Europe. The creation of incentives for the development of tourism products and facilities that add diversity and value for the target market of the Cayman Islands. Consideration of the establishment of special development areas in selected parts of the Islands for five-star hotels or five-star boutique hotels with in-

vestment incentives for the development of such facilities.

Maximising Participation and Building Capacity

The policy objective, Madam Speaker, is to develop initiatives with the cooperation of the private sector that support Caymanians in fully participating in the benefits of the financial services and tourism industries. Red Carpet Reform needs to have a local element to ensure that Caymanians also have the tools and the opportunities to participate effectively in our key economic sectors. Measures which will be utilised by government include: continuing to improve our educational systems in order to support our youth in preparing themselves for the challenges and opportunities they will face in a global economy; encouraging private sector participation in planning and implementing continuing education programs. Increasing knowledge among our youth regarding various sectors of the Cayman Islands economy, how they operate, what benefits are available through these sectors and how our youth can prepare themselves to be valued contributors. Developing agreed procedures with the private sector for the training and updating and upward mobility of Caymanians and developing ongoing educational and training procedures and a more inclusive educational program for all Caymanians in the tourism and financial services sectors.

Implementation and Evaluation Process

Finally, Madam Speaker, the Government will assign an implementation team at ministry and/or portfolio level to be responsible for giving effect to this plan and for monitoring outcomes.

Over the past several years and, in particular, since the effects of globalisation, the various countries black listing us and the 11 September 2001 impact on tourism and the general economy, we have had our share of problems; decreasing business and unemployment. The introduction of the Budget by the Honourable Financial Secretary tells of strong hands on the wheel for a good course.

Take this no more than it means, Madam Speaker: *'We have come a long way, baby'*. Our Government feels good of the management provided this year reflecting in this kind of budget. No new revenue measures, no borrowings and significantly improving on general reserves. This is good management if ever there was in this country.

Madam Speaker, I want to thank all civil servants who work with us and continue to support good management. We are grateful and would like to thank Mr. Tony Dale and Mr. Peter Gough for the development of the budgetary framework.

True, we have come a long way. As the conditions between the United States, the United Nations and Iraq continue to be strained, we pray earnestly for world peace. What we really need at home is more

cooperation; less grumbling, less fault finding and less finger pointing. We need solutions to the problems we face. We have come a long way but there is much work to be done.

Madam Speaker, if you would permit, I now move into the latter part of the statement which is on the Immigration Reform and more detailed on that aspect.

The Speaker: Please continue accordingly.

The UDP and the Government's Intention to Deliver their Previous Commitment to Revise and Improve the Concept of Immigration in the Cayman Islands

Hon. W. McKeeva Bush: Madam Speaker, the United Democratic Party and this Government intend to deliver on our previous commitment to revise and improve the concept of immigration in the Cayman Islands. Our goal is to create a clear, fair and transparent immigration policy within internationally acceptable standards having regard to the treatment of foreign nationals residing in our Islands. To this end we have reviewed the deliberations of the Select Committee of the whole House 1997-2000 on Immigration, the relevant sections of the Cayman Island's national strategic plan Vision 2008 and the reports of the Immigration review team appointed last year to make recommendations for the development of a new Immigration Law.

Without a doubt the unprecedented increase in residents who have settled here over the past 30 years has contributed greatly to Cayman's economic success. In order to remain competitive internationally, we must ensure that we continue to attract and retain a resource of persons within the Islands to service our industries and maintain our high standard of living.

Madam Speaker, this Government believes that it is fundamental to the future development of the Islands that we continue to attract individuals with specialised skills and expertise. Such persons are critical to Cayman's success as an offshore financial centre and tourist destination, and many become directly responsible for the training of Caymanians in areas where there is presently a severe shortage of resources within our own Caymanian workforce. Such persons also bring much needed skills for the maintenance and development of our infrastructure.

At the same time, we must accept that non-Caymanians who remain here for significant periods of time will begin to develop and demand greater security of tenure than that presently offered through our work permit system. As a result, we must either accept that Caymanians will continue to be a declining percentage of the country's permanent population, or we must develop and implement a policy designed to identify the residents we need to integrate as long-term members of our community and those who may

not qualify for long-term residents or who do not wish to remain long-term for one reason or another.

Bearing this in mind, we propose to create a comprehensive and integrated system of time frames within which all non-Caymanians will be eligible to apply for the grant or work permits, permanent residence, citizenship under the British Nationality Act and Caymanian status. This new framework has been designed so as to ensure that persons seeking to reside and remain in the Cayman Islands will have to fulfil the following criteria:

1. for new applicants coming to the Island in the future emphasis will be placed on the availability of the applicant's skills within the current labour market of the Island, as well as the proposed employer's record of training and promoting Caymanians within their field of business.

2. companies will be closely scrutinised through the use of a revised and improved business plan system which will allow employers to produce staffing plans for their businesses. Such plans will cover three-to-five year periods and must contain full details of all training, scholarships and succession planning offered by the businesses to ensure that Caymanians are being given the first and best opportunities for career(s) advancement.

3. for businesses with satisfactory business plans all assistance will be given to ensure that the work permits needed by them to employ foreign workers with specialised expertise not available or in short supply within the Islands are processed within a fair, fast and efficient manner. Secondly, for long-term work permit holders, opportunity will be given to qualify as permanent residence of the Cayman Islands. Qualifying criteria will be based on a point system, details of which will be made available to all members of the public. Points will be allocated based on the applicant's occupation, education, experience, special skills, ability to support themselves financially, connection with the Islands, integration in the Islands, knowledge of our history, traditions and customs, and if relevant, any close Caymanian connections.

As a result of this wide ranging and diverse criteria, we will be able to identify our future permanent residents not only from among chief executive officers, professionals and managers, but also from among our technical skilled tradesmen, administrative and clerical workers.

Madam Speaker, in creating such a clear and transparent path, every work permit holder will know before even taking up residency in the Cayman Islands the criteria by which he or she will be assessed should they choose to remain in the Islands on a longer-term basis.

Finally, Madam Speaker, it will be open to permanent residents to apply for a grant of citizenship under the British Nationality Act under the criteria set by the United Kingdom to achieve such citizenship. Remember, it is for the United Kingdom to grant citizenship by virtue of the British Nationality Act, but it is

the right of the Cayman Islands Government to decide who should be permitted to settle in our Islands as permanent residents. We propose to bring new legislation before the Legislative Assembly in March 2003 to repeal the present Immigration Law (2002 Revision) and to replace it with a new law which is fair, clear and concise in its terms. It will set out in detail what is expected of employers and employees as well as create a graduated system of rights for non-Caymanians. The new Law will also provide for transition provisions needed to address our present situation.

Madam Speaker, it has already been recognised that we have over 12,000 non-Caymanian residents in the Islands, a large majority of whom have been residing here for the long-term. Before a new system can be adopted we must ensure that we deal fairly with these people who are already here and part of our community. However, this should not be taken to mean that there will be any across-the-board grants of Caymanian status to all such persons. In addition to a new framework for work permit holders and long-term residents, provisions will be also be made to encourage wealthy retirees and entrepreneurs to invest and reside in the Islands together with their important support staff and/or dependents.

Provisions will also be made for children who were born in or resided in the Islands during their minority, as well as the spouses of Caymanians who, it is proposed, will be granted the right to reside and work in the Islands.

In conclusion, for more than 12 years successive governments have promised immigration reform and nothing has been accomplished. Madam Speaker, we cannot continue to ignore the problems that are being created by our previous lack of commitment to act. We are aware that no immigration policy can be all-encompassing or all-inclusive. Immigration by definition is subjective and usually based on a person's ability to qualify given set criteria. It will never suit or please everyone, but we need to be decisive and proactive in creating a new policy which will generate a gradual and selective increase in Cayman's permanent population base for the benefit of our social, economic and cultural growth for many generations to come.

Madam Speaker, this is the policy of the United Democratic Party and Government.

I want to thank Honourable Members for sitting through—some of them—this very long time, but we thought it necessary to do this at this stage.

The Speaker: May I have the motion for the adjournment?

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, we propose to adjourn this Honourable House until Wednesday, 13 November 2002 at 10 am, when Members

should be ready to start the debate on the new Budget.

Members should remember they only have two hours.

The Speaker: Thank you. The question is that the House do now adjourn until Wednesday 13 November 2002 at 10 am.

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

Ayes.

The Speaker: The Ayes have it.

At 12.10 pm the House stood adjourned until Wednesday 13 November 2002, at 10 am.

OFFICIAL HANSARD REPORT
WEDNESDAY
13 NOVEMBER 2002
10.33 AM
Fifth Sitting

The Speaker: I will invite the Third Elected Member for the district of West Bay to grace us with Prayers.

to Her Majesty Queen Elizabeth II, Her heirs and successors according to law so help me God.

PRAYERS

Capt. A. Eugene Ebanks: Let us pray.

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

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

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

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

Proceedings resumed at 10.19 am

The Speaker: Please be seated.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

Oath of Allegiance

*Mr. Donovan W. F. Ebanks, MBE
(Administered by the Clerk)*

Mr. Donovan W. F. Ebanks: I, Donovan Ebanks, do swear that I will be faithful and bear true allegiance

The Speaker: On behalf of this Honourable House may I invite you to take your seat, Honourable [Temporary] First Official Member.

Please be seated.

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

Apologies

The Speaker: I have received apologies for the late attendance for the Honourable Second Official Member, the Leader of Government Business, the Honourable Minister for Education, and the Honourable Minister for Health.

I should also wish to at this juncture state that a request has been forthcoming for the Budget Address to be televised and/or recorded. The Chair feels that it is an extremely important debate to the country and one which should be televised. I have written to Mr. Wilson, and for the record I wish to indicate what I have written:

Video Recording of Proceedings

"Dear Mr. Wilson

"I refer to your verbal request of yesterday evening to video record the debate on the Budget Address (The Appropriation (January to June 2003) Bill 2002) by First Elected member for George Town.

"I write to confirm that I am unable to authorise the video recording of any one single Member's debate. However, I am prepared to give blanket approval for the entire debate on the Budget Address to be recorded. Obviously what is then televised is a matter for CITN's policy."

It is still my firm belief that it is an extremely important debate which should be televised, and at this time I propose to take a 5-minute suspension to meet with Members in the Committee Room to discuss this matter.

Proceedings suspended at 10.42 am

Proceedings resumed at 11.20 am

The Speaker: Please be seated. Proceedings are resumed.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE GOVERNMENT

The Speaker: The Leader of Government Business, can I have a motion for the suspension of Standing Order 23(7) and (8) to allow Question Time to begin and continue beyond the hour of 11 am?

Suspension of Standing Order 23(7) and (8)

Hon. W. McKeeva Bush: Madam Speaker, I move for the suspension of the relevant Standing Order in order to take Question Time at this particular point.

The Speaker: The question is that Standing Order 23(7) and (8) be duly suspended to allow Question Time to continue beyond the hour of 11 am.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended in order for Question Time to be taken beyond 11 am.

Carried Forward Question From The Third Meeting
Of The Legislative Assembly

The Speaker: The Elected Member for the district of East End.

Question No. 46

(Deferred Monday 4 November 2002)

No. 46:Mr. V. Arden McLean asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economics what is the status of the financial audit of the Drugs Task Force.

The Speaker: The Honourable First Official Member.

Hon. George A. McCarthy: Madam Speaker, the subject to which this question relates falls under the Portfolio of Internal and External Affairs and accordingly the answer will be provided by the Honourable Acting First Official Member.

The Speaker: Thank you.

Honourable Acting First Official Member.

Hon. Donovan W. F. Ebanks: Thank you, Madam Speaker.

The Portfolio of Finance is not aware of any on-going financial audit of the Drugs Task Force (hereafter the 'DTF') being undertaken.

The Portfolio of Finance understands that an internal investigation of the DTF was conducted recently. I would be... *[Pause]*

Hon. Donovan W. F. Ebanks: Madam Speaker, may I just have a minute to consult with the Third Official Member?

The Speaker: Certainly.

[Pause]

The Speaker: Honourable First Official Member, we will continue to give you indulgence for a few moments to have the necessary photocopies made.

Hon. Donovan W. F. Ebanks: Thank you, Madam Speaker.

The Speaker: They are being distributed now.

Hon. Donovan W. F. Ebanks: I am sorry to have brought the confusion a moment ago. I will repeat the answer.

The Portfolio of Finance is not aware of any on-going financial audit of the Drugs Task Force being undertaken. The Portfolio of Finance understands that an internal investigation of the Drugs Task Force was conducted recently.

Madam Speaker, I undertook to provide that answer because I do have some information that I can share in relation to the internal investigation if the Member who asked me the question would wish me to, or obviously if any other Member would so wish.

The Speaker: The Member for East End with a supplementary.

Supplementary

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

Since the Temporary First Official Member was so generous to offer himself up, I wonder if he can explain to us what the internal investigation—since that is what they call it—entails and if a report has been made thereon and to whom.

Hon. Donovan W. F. Ebanks: Thank you, Madam Speaker.

It is my understanding that, perhaps, there had been a suggestion made to the chairman of the Public Accounts Committee some nine months to a year ago that the Auditor General should be asked to do an audit of the financial dealings of the Drugs Task Force. There

was also an anonymous letter that was in public circulation about that time.

I am advised by the Commissioner of Police that he, being aware of the request that had been put to the chairman of the Public Accounts Committee, personally contacted the Auditor General to determine whether he was intending to do an audit of the Drugs Task Force. He was told by the Auditor General that he had no such request and had no such item schedule. In light of the concerns and comments which seemingly had been made in Public Accounts Committee and also had been generated by this letter, the Commissioner then commissioned this internal investigation.

The investigation looked into the practices, procedures, operational matters, record keeping and handling of receipts from the sale of seized assets. It was, therefore, a rather comprehensive investigation. It was carried out by the Deputy Commissioner, Mr. Buel Bragg.

The report was presented to the Commissioner, who then readied it for transmission to the Governor. It was subsequently formally presented by the Deputy Commissioner to His Excellency the Governor who is the disciplinary authority for police officers of the gazetted ranks. The Governor considered that report and, in fact, I am advised, saw Deputy Chief Superintendent Haynes on the 29 April and considered a number of disciplinary matters related to inadequate record keeping and breach of Commissioner's instructions. The Governor, having heard Deputy Chief Superintendent Haynes, issued advice as to his future conduct and also on strengthening the procedures within RCIP.

I think that provides, to the best of my knowledge, the background on who conducted it, what it covered and the result of the report produced.

The Speaker: The Elected Member for the district of East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I thank the Temporary First Official Member for that reply.

During my Throne Speech of 2001 reply, I brought to the attention of this Honourable House a particular letter written by the Superintendent of DTF, Mr. Haynes. Madam Speaker, your good self ordered that an investigation be done.

I wonder if the Temporary First Official Member can tell us if this investigation also included that because, as far as I can recall, I think, Madam Speaker, you requested that a report be made back to this Honourable House.

The Speaker: The Honourable Temporary First Official Member.

Hon. Donovan W. F. Ebanks: Madam Speaker, I cannot say whether there was any request or requirement that a report be made back to the House. What I am aware of is yes, there was a letter. However, as the Member said, he raised it during the course of the debate, it was introduced here and you, Madam Speaker, referred the letter to the Attorney General. I am advised that he, in turn, referred it to the Commissioner of Police for investigation, it was also investigated by the Deputy Commissioner of Police and the outcome of that second investigation was prepared and submitted to the Honourable Attorney General. The decision, presumably from the Honourable Attorney General, was that there would be no criminal charges as a result of the letter. I cannot say, as I said at the outset, whether there was any requirement that the Attorney General having given the letter should have reported back to you, Madam Speaker, or to the House.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Going back a little bit, I wonder if the Temporary First Official Member can tell us if, as a result of the investigation, any misappropriation of funds were found.

The Speaker: The [Temporary] First Official Member.

Hon. Donovan W. F. Ebanks: Madam Speaker, it is my understanding that there was no evidence of misappropriation of funds. There was evidence of failure to comply with the Commissioner's instructions, but there was no evidence of misappropriation of funds.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Can the First Official Member then tell us if all funds were accounted for?

The Speaker: The Honourable [Temporary] First Official Member.

Hon. Donovan W. F. Ebanks: Madam Speaker, I can only say that to the extent that the Deputy Commissioner of Police and the Governor concluded that there had been no misappropriation and that they were satisfied with the accounting that was given for all funds that had been collected.

The Speaker: The Elected Member for East End. I will allow one more supplementary after this one.

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

Can the [Temporary] First Official Member tell us whenever there is an investigation which involves (criminal or otherwise) a gazetted officer if it is usual procedure that that investigation is completed and then sent to the Governor for his scrutiny before any further prosecution is carried out?

The Speaker: The Honourable Temporary First Official Member.

Hon. Donovan W. F. Ebanks: Madam Speaker, if an investigation exposes or reveals matters that could result in criminal charges, then the normal procedure and as much as the Police—as in this case they are the ones conducting the investigation—are not themselves authorities on what would be reasonably sustainable in a court, then our procedure would be that they would refer it to the Attorney General for an opinion in respect of those matters that they think would result in criminal charges and obtain that opinion for incorporation into the report before it goes to His Excellency the Governor.

The Speaker: The Second Elected Member for the district of Cayman Brac and Little Cayman

Mr. Lyndon L. Martin: Thank you, Madam Speaker. I noted in the answer given by the Temporary First Official Member that Chief Inspector Haynes made recommendations of certain changes to processes and procedures. I was hoping he could confirm if any of these alterations have been implemented to date.

The Speaker: The Honourable [Temporary] First Official Member.

Hon. Donovan W. F. Ebanks: Madam Speaker, I think the Member may have been referring to recommendations made by Deputy Commissioner Braggs. Yes, Ma'am, they certainly have been implemented.

Something in light of the fact that you mentioned earlier that was the last supplementary; I would just make one other comment: The Commissioner had, in fact, been on the verge of issuing a public statement (press release) on this whole matter but, obviously in respect of the fact that the question had arisen here, withheld that press release. Now that this question has been answered, I will be happy to follow that up with him and ensure that that is done. Obviously, there is no desire on our part for anything other than the fullest disclosure on this matter. Thank you.

The Speaker: Thank you. That concludes Question Time.

STATEMENTS BY HONOURABLE MINISTERS/MEMBER OF THE GOVERNMENT

The Speaker: I have not received any notice for statements for this morning.

GOVERNMENT BUSINESS

BILLS

SECOND READING

The Appropriation (January to June 2003) Bill 2002

COMMENCEMENT OF DEBATE ON THE BUDGET ADDRESS

The Speaker: Does any other Member wish to speak?
The Second Elected Member for the district of West Bay.

Mr. Rolston M. Anglin: Thank you, Madam Speaker. This would be my third contribution to a budget address. Certainly, I think it is fair comment to say that there is a shared view on both sides of the House that is ultimately the desire for us to reach the level of constitutional development and political maturity in Cayman so that we would offer the public, in the very first instance, the political directorate's own voice in regards to the Budget. That is, an elected Member would be offering the formal position as to the fiscal strategies and plans, the economic position and plans of the Government.

Over the years we have come to present to the country and to the Legislative Assembly a much more neutral position, one that is offered by the Honourable Third Official Member. That is not to take anything away from his Budget Address, but it is the reality. As a civil servant who is bound by General Orders of the Cayman Islands, the Honourable Third Official Member outlines, in a pure vanilla form, fiscal strategy and economic policies. We have to be careful that we do not get too far ahead of ourselves in this regard and that we all work diligently and cooperatively toward getting to that stage of constitutional development.

Madam Speaker, we, the elected members of the United Democratic Party, do support those forthcoming changes. I think it is fair to say that the Opposition supports those changes that we all see forthcoming because we see that as a natural next step: an elected member of the Government gets up and puts forth the position of the elected Government and then we have a reply from the duly elected Leader or his delegate of the Opposition.

This is the third time that I have addressed and debated a budget. In fact, this is the third time that I have been the First Elected Member to speak and to offer the debate.

I would like to give a brief outline as to the form that my debate will take. First of all, I will be looking at the current state of affairs. I will be looking at the Government's financial position as outlined in the Honourable Third Official Member's presentation last Friday. I will be looking at the United Democratic Party's fiscal

record to date. I will take a look back at what we have achieved in one year and clearly demonstrate that if one is willing to work hard; if one is willing to work collectively; if one is willing to be a leader, one can achieve much in one year. Of course, there is much work to be done. I will look at the whole issue regarding investor confidence in the Cayman Islands, and I will also take a look at the financial services area.

Madam Speaker, I would crave your indulgence to recall that a year ago when the United Democratic Party Government put forth its first budget there was much said in regards to the recklessness, as I remember the terms being used, "*the disregard and the fact that it was not a responsible budget*". Those were the views put forward by the Members on the other side—the Members of our House who are not Members of the Government. I think it is going to be quite revealing to take a look at the financial services area and to see precisely what is going on.

So, Madam Speaker, I offer a quote, "**To look backward for a while is to refresh the eye, to restore it and to render it more fit for its prime function, which is looking forward**". That is Margaret Fairless Barber.

That is the reason why I have said that we do have to look back, but we also have to look forward as we continue an unprecedented move toward fiscal responsibility in this country; an unprecedented move toward ensuring that Government acts collectively and that they themselves translate into true fiscal discipline and a coherent set of economic policies.

Madam Speaker, not to anticipate but certainly there are other facets that will be covered by speakers to come. So a detailed look will be made at the fiscal position of the Government; a detailed look will be taken in terms of the economic indicators and where we are heading. Also, in our usual style of providing the complete picture, we will also ensure to point out that all the planning in the world cannot account for certain actions that happen outside the Cayman Islands over which we have no control—acts that do have an indirect, and I would say direct in a lot of instances, impact on our economy. The acts that I speak about are like those that happened tragically last September, ones which we have no control over but are out there.

There is the looming threat of war in the Middle East that would involve our major tourism partner, that is, the United States of America. As we all know, the majority of our tourists do come from that country and we all know that when countries are at war their citizens are naturally less apt to travel certainly to another country.

Madam Speaker, when one takes a look at the financial position of the Government and when we realise just how far we have come in a short period of time, it is clearly evident that when one takes

a clear, considered, decisive act, you have an opportunity for change; you have an opportunity for success. There is one guaranteed recipe for failure, in fact, I would say it is probably the only one that mankind knows is a guaranteed recipe for failure and that is to not act; to not look at the fundamental problems that you face, stare them head on and deal with them effectively. A government cannot act like a matador waving a red sheet instead of *grabbing the bull by the horns* and dealing with it.

Madam Speaker, from November 2000 and November 2001 the country floundered under that style of leadership, where we were acting as if we were really in the ring with the bull but all we were doing was waving the red sheet and not grabbing the bull by the horn.

It is no coincidence that in the first budget after the November 2000 elections we borrowed \$55 million and that one year later the revenue package that the United Democratic Party Government brought to this country was \$50 million in new tax measures. In fact, the Cable and Wireless payment increased somewhere around \$5 million from 2001 to 2002. We might all recall that they had significant year 2000 write-offs, so the prior year's numbers in terms of their royalty to the Government were down. So, it is not difficult to reconcile the difference.

We have an opportunity in these Islands to reach an unprecedented level of fiscal management and fiscal responsibility that is so greatly needed. Madam Speaker, if you continue to not properly utilise the resources of the country one cannot build a nation. We must continue down this road.

It is quite pleasing to come to this Legislative Assembly and announce to the public that we are presenting a Budget with no new revenue measures. In the very first year a conscious decision was taken to fill the gap with revenue earned by the Government. We have now a situation where it is clear; hindsight is 20/20. Twelve months removed the furor of the last budget we now start to reap benefits. Not only was there revenue enhancement measures, but the purse strings of Government were held extremely tight. In this vain, I particularly congratulate the Leader of Government Business and all the other Members of Executive Council.

When you are talking about a government, you are not talking about a private company. With a private company there is so much flexibility in terms of: your financial plans, pricing, employees' pay, the number of employees. If you have a business that was performing the way the Cayman Islands Government was performing up until November 2001, there would have been certain immediate corrective measures that you could have taken that are not necessarily corrective measures as easily implemented in a government. Last year we heard calls for mass layoffs in the civil service. Yes, we could have gone to the Governor and said, '*Let us lay off half the civil service to fill the gap.*' What would have happened to those people? Where would the jobs have come from? How would the mortgages have been paid? How would they have fed their families? Would they

have not simply had to come back to Social Services for temporary financial assistance and so the Government would have had to come up with money to care for its citizens anyway?

Madam Speaker, we have looked back and we start to see things come into focus. We start to now see a country that has the style and type of leadership that will recognise that when there is a problem you have to fix it because the problems just do not go away so easily.

Certainly there could have been other measures taken twelve months ago. We could have increased public debt. We could have said that driver's licenses will be \$500 for each person, a passport will be \$150 per person and school book fees will be \$300 per person. I am just choosing numbers, but the point is that we could easily have taxed the same way in which we normally taxed in Cayman. That is, you put them in places where you deal it to the majority of the people who do not have individually, or collectively, a strong enough voice to resist the will of the Government. So, we go through the furor that was caused last year when we presented our budget and come one year later with no new revenue measures.

Madam Speaker, there are many great things happening in the Cayman Islands. I think it is clear that investor confidence is up. We have major projects that are well underway. Investors who were not too sure that they wanted to invest in Cayman are now coming back to the Government with their proposals and saying, "*We want to invest in the Cayman Islands; we want to be a part of the Cayman success story*". At the end of the day they recognise that there is leadership in the Cayman Islands that realises that we cannot have our cake and eat it too.

The tap on this economy is affected in many ways. As I said, there are outside influences of which none of us can control, but the things which we can control we have to be reasonable and rational about. We have to embrace opportunities, to move forward with our people. It is extremely important that the United Democratic Party is cognisant and works actively to ensure that every hardworking Caymanian who wants to move forward and progress in life is given the opportunity.

The United Democratic Party is about results, not about political posturing. As I said earlier, there will be further details from the speakers who will come in terms of some of the forthcoming projects in the Cayman Islands—those that we can discuss at this time, and the plans that will help us to be a place that is friendly to do business in.

Foreign direct investment is something which a small minority of people seemed to have taken a view on about three years ago and seemed to have believed somehow that the Cayman Islands had enough. We had enough of everything so we

could turn the economic faucet off, but we are now reaping the impact of that sort of decision making.

Madam Speaker, it is ideal to believe that you can just gather your collective breath, halt development or slow it down and try to make a lot of other things catch up, but development is a key component to economic activity in any country. The country that enjoys the highest level of foreign direct investment on this planet is the United States of America. People look at former President Clinton and say he was an economic genius. Madam Speaker, he had a good team but, at the end of the day, they enjoyed a level of foreign direct investment that was unprecedented in their history and in the world's history. It fueled their stock market, the Dow Jones industrial average going into five figures. When people invest in your country that is what fuels and spurs economic activity. That is a country with 290 million people. How is it that somehow we can believe that in a country with a base population of indigenous people of some 25,000 that we can control all the economic variables and so we can just turn the tap off? We need foreign direct investment like we need air to survive.

Madam Speaker, our Leader spent relentless amounts of energy, countless hours and much travel time trying to ensure that this key component to economic stability in the Cayman Islands was reinvigorated and built back up. After being elected in November 2000, one of the Leader's and Fourth Elected Member for West Bay's first official visits was to Curacao. At a meeting which covered development in the Caribbean, one thing that was evident was that there was that feeling out there that the Cayman Islands were just fine, we had great economic activity, everything is booming and so we really did not need anything more. We were completely happy and satisfied with where we were. Yes, there have been things outside of our control that have caused the economic recession in the Cayman Islands, but certainly the thought, the policy and the inference that we were not desirous of any more foreign direct investment in terms of large projects turned a lot of people away from the Cayman Islands.

While there will be those who criticise the Leader in terms of his travel, they do not realise how much work there is to be done to restore investor confidence, to bring business back to the Cayman Islands and to ensure that we develop sensibly because there has to be a balance. I say that we must always do what is best for our people and for our financial stability and economic prosperity in the future. That is the side of the coin that we must err on.

Madam Speaker, I can remember in the mid 80s hearing people from construction companies talking about how there was just too much work and we needed to slow it down a little bit. Of course, it is human nature to want to do everything, and certainly there were a lot of people in that industry that saw numerous pending projects but they did not have the manpower to do it. So there was a boom in the number of construction companies in the mid 1990s, and then there were

those who said, 'We need to slow it down a bit.' Now they are the same ones who were very critical over the last 24 months of the lack of work and activity in that critical sector in our economy. So investor confidence is something that is crucial and it is something that you can lose very quickly.

The competition out there is fierce. We cannot sit back on our laurels and believe somehow that the Cayman Islands have everything that everyone wants so people will line up and wait for us. If we want it in ten years' time, just tell them to come back in ten years and talk about the project. When people have monies to invest they will find a way. If it is not the Cayman Islands, then it may be the Turks and Caicos Islands. It may be the British Virgin Islands, it might be the Bahamas. However, when we have the opportunity to be number one we must seize it and we must continue to strive to strike the balance. We must continue, as a Government, to focus on making sure that we process as many of our citizens as we can humanly through our education and training programs to keep up with the economic activity. We cannot and do not want to have a situation when there is much economic activity but the average citizen is not reaping the benefits. That is the precursor for social degradation. That social decay can spoil everything that we work so hard to build up; everything in tourism. If Cayman is not a safe place to come, everything in the financial services industry, who would want to be in the Cayman Islands if you cannot safely step outside your office doors? So this Government is focused on the balance, and that other side of the balance will be forthcoming in the Minister's of Community Service debate.

Let us look at the financial services industry. When we presented the budget a year ago there was much doom and gloom painted. We were said to have been the persons who would be directly responsible for killing the financial services industry. We would chase it away because we had raised fees in certain sectors.

I have the most recent statistics posted on the Cayman Islands Monetary Authority's website at 12 o'clock last night, so this is the position as at the 13 November 2002.

When we look at class A licenses we see that we have maintained our position. It has gone from 31 to 30, but that is because of the merger of CIBC and Barclays Bank locally to form the First Caribbean Bank. So while the number of licensees has declined by one, the same number of players in the industry is here.

If we look at the class B license banks we will see that there was a decline. However, while there will be those who would seek to blame the decline on the fees brought on by the Government, I would like to say that none of us have any magical answer as to precisely what impact each of the considerations that I am going to mention would have

had. Nonetheless, they all would have played a significant part.

At 31 December 2000 there were 418. At 30 December 2001 there were 379, a decline of 9 per cent. I purposely picked 30 September 2001 because I feel confident that Members on the Opposition would utilise this type of information to say somehow that the decline happened since our budget last year. However, up until 30 September 2001, the First Elected Member for George Town was still the Leader of Government business.

Between the 31 December 2000, class B, unrestricted banks licenses went from 418 to 379, a decline of 9 per cent. By 31 December 2001 it rose slightly to 386, an increase in that last quarter of some 2 per cent. As of today they are down to 352 or 9 per cent.

Madam Speaker, one of the critical considerations in terms of what has caused the decline is the impact of the international initiatives. We all know that the Cayman Islands Government made certain commitments. One key commitment was that many of these banks that were seen as just brass plating in the Cayman Islands had to have conformed to a new regime to comply with physical presence. So there has been attrition in licensees because of that. Many of those entities said that they will not go through the cost to comply with the new regulatory regime and therefore simply turned their licenses in. In fact, earlier this year the Honourable Third Official Member, in answering a parliamentary question raised by the Opposition in the March sitting of this Legislative Assembly, outlined quite clearly that in that first quarter alone there were some, as I recall, 14 licensees who turned their licenses in. He could confirm through dialogue with the Monetary Authority that those licensees were entities who were not willing to meet the new regulatory regime in the Cayman Islands.

Madam Speaker, also of interest would be class B insurance companies. Between 31 December 2000 and 30 September 2001 they increased by some 5 per cent, going from 437 licensees to 457 licensees. Between September 2001 and 31 December 2001, they increased another 2 per cent, up to 466 licensees. As of today there are 513 licensees, an increase in the last ten and a half months of 10 per cent.

Let us look at Mutual Funds. I was quite surprised at the movement within the Mutual Funds area. We know it is a "boom" area for the Cayman Islands, an area where we are growing by leaps and bounds and that we are leading the competition. We are a great domicile; we have a good product and are equally able to efficiently turn around applications. People know that for those who choose to have their mutual funds products service in the Cayman Islands there are a lot of good, competent professionals in law firms, mutual fund administration firms and accounting firms. When the law firms structure the deals the mutual fund administrators coordinate the administration of the mutual funds and the auditors audit the mutual fund.

In this regard the Cayman Islands have seen much success. In fact, according to the statistics pro-

vided by the Cayman Islands Monetary Authority as at 31 December 2000 there were 3014 mutual funds registered in the Cayman Islands. By 30 September 2001 there was a decline to 2565, a decline of some 15 per cent in the first nine months of 2001. By 31 December 2001 the number of registered mutual funds was up to 2937, an increase of 15 per cent in one quarter. In the last ten and a half months I am happy to report that mutual funds are now up to 4267 registries, an increase of 45 per cent.

There are those who paint doom and gloom about the Cayman Islands for their own benefit, whether it politically or economically. There would be those who would want to paint a doom and gloom picture and try to infer that our budget of last year is causing the serious decay in the financial services industry.

Madam Speaker, I think I have clearly outlined in terms of utilising the three major areas in our financial services area—banking, insurance and mutual funds—that all is not a sum painted. For mutual funds to increase by some 45 per cent in the last ten and a half months is a great testament to the resilience of our financial services area. It is a great testament that business is booming. Certainly, on the private banking side there have been losses, but we knew that for the last thirty-six months. Those people who have planned, prepared, restructured and reorganised themselves have managed to continue to be thriving entities in the Cayman Islands. Many firms that offer fiduciary services built up their mutual funds departments and have continued to be in the Cayman Islands despite what the “doom and gloomers” were saying.

After the international initiatives and our budget, if you had listened to all the nay-sayers you would have thought that all the banks, insurance companies and mutual funds would have been gone and the Government would be back trying to replace the revenue. The Government is focused on investment in the Cayman Islands because it is what is going to keep our people fed and what will allow us to get through this economic downturn to be able to reposition ourselves in key areas so as to grow economically. We must provide for our children and grandchildren to come.

Madam Speaker, it has been quite an interesting ten and a half months. Certainly, in the last year I have had more personal involvement than I have ever had in my twenty-four months in this Parliament. I have been involved in the Budget process and bringing business to the Cayman Islands. I would like to thank the Leader of Government Business for affording me those opportunities and for also being the type of leader who grasped onto opportunities for good business and made sure that he, along with the Honourable Third Official Member, provided opportunities we need in the Cayman Islands. There has been so much that has happened in this last year.

The Government, of course, is not sitting back feeling smug and as though the race is won; the race has just begun. The Honourable Leader has much work in the Tourism area which he will be speaking to later, I am sure.

When I returned home from university I was involved in many organizations; I was the treasurer for the National Trust, for example. I can remember the types of pushes being made in terms of policies that had to do with land use, tourism, the number of cruise ships that were coming to Cayman.

Madam Speaker, it is easy when one is financially secure to want this perfect little Island that has no tourist walking in front of you as you drive your car. They do not want to see more than one cruise ship out in the harbour for a day. However, this Government has to provide for all of our people. Like any other society, the great majority of our people are not well-to-do. So if the Leader had listened to the nay-sayers and had not aggressively gone after the cruise business where would we be today? All you can hear are the people in the industry saying, ‘*Wow, are we not glad that we have cruise tourism!*’ That is what is keeping us afloat.

Madam Speaker, the Leader of Government Business has to travel; he has to make sure the work gets done. Come 2004 we will not be able to get up—and we will not be the type of government that gets up—and points fingers and blames. We have the opportunity to assist our country in terms of providing the type of stable, deliberative leadership, and that is what we are doing.

When you have to travel to meet with the Florida Caribbean Cruise Association (FCCA) in an attempt to negotiate a better docking facility so the tourists do not have to wait an hour and forty five minutes to get back on their ship, the Leader has to be there. That is who they expect to be there.

Madam Speaker, we have achieved much in one year and there is much to be done. Being the Government is the most difficult position because we have to get results and not everything is within our control. The Florida Carnival Cruise Association did not have to divert all their ships to Cayman, specifically when they moved them out of the Mediterranean and put them into the Caribbean, because of the threat of war after the attack on the World Trade Centre. However, we made sure that we got as much of that business as we could get because if we had not done that and business was still relatively slow, what would our people in that industry have done if the United States goes to war with Iraq and there is a downturn even in that sector? The good ship Cayman has a group of leaders who are focused on results and making sure that we continue to provide the type of opportunities that our people have become accustomed to.

Madam Speaker, in one year we have gone from a position of being told that there were some \$90 million gap within the Budget which needed to be filled between recurrent expenditure and recurrent revenue. One year later we are now in a position to come to this

Honourable House and tell the country that we do not have any revenue measures; not one revenue measure to be enacted

We do have a new format to the Budget and it is one that is much clearer, much more transparent and certainly the details of which will be forthcoming. Nevertheless, Madam Speaker, as I gave the outline to my speech, I am focused on the big picture. The Opposition can get up in this House and "huff and puff" and they can "nitpick" any Budget document; but the bottom line is that at the end of the day we have a balanced Budget, there are no new revenue measures and there is investor confidence back in the Cayman Islands despite all that is going on in the global economy.

The financial services area is continually repositioning itself to grow. Madam Speaker, they cannot get up and accurately paint a picture that there has not been decisive and effective leadership in the last year that has allowed us to reach this position.

The Leader of Government Business makes every trip that has to do with international initiatives. He has to. We are not going to sit back and then point a finger and say, *'Oh well, you see it was this one and that one, they went and did it, they did not make our position clear and strong enough'*. At the end of the day, there is one resounding theme from this Budget: a truly balanced Budget for a second consecutive year, investor confidence, a continued repositioning of the financial services industry, and no new revenue measures. None! No new revenue measures! No borrowing!

Fiscal prudence is not learned in a textbook. Knowing the theories and being able to understand the theories and certain principles without the will to manage the resources properly will put you in the same position we were twelve months ago; dire financial straits.

Madam Speaker, as a country we have the possibility to continue to achieve great things economically and socially for our people. At the end of the day my conscience is clear: we in the United Democratic Party have focused on the big picture. The big picture is employing our people who then can afford to send their children to school so that they have the opportunities their parents did not.

It is not long ago, I need only go home and speak to my parents, when they were not afforded the opportunity to stay in school and get an education. They had to leave school: one to go to sea and one to go to work as a domestic in wealthier people's homes to make ends meet. Is that we want for our people? We must have fiscal prudence. We must have a management style that allows us to continue to foster economic development and not squander all our resources via the government because a government can do that.

The Financial Secretary in his address outlined a key point; international inefficiencies in gov-

ernment account for up to 2 per cent of GDP. That is a staggering statistic. If you translate that to countries' economies, that is billions of dollars. We undertook a year ago to deal with the problems and the fundamental issues. That is how you resolve them and that is how you are then able to move forward and progress.

Madam Speaker, I want to reiterate that yes, things are looking much better, but there is much work to be done. I am a conservative by nature, so I try not to get too carried away with medium-term successes. Certainly, however, if one looks at what has happened in the last twelve months, in a true and fair sense one will see that corrective measures have been taken to address many of the fundamentals, such as not being able to cover recurrent expenditure. If a household cannot pay for food, electricity or water and would have to go and borrow for those things, that can only continue for so long.

One of the key fundamentals we saw very quickly was that at the bottom line we could talk about inefficiencies in government all we want, we could talk about the size of the civil service being too large, but at the end of the day there were much needed services being provided. We were not going to act irresponsibly and just go in and axe people in terms of firing them or axe and discard services. One of the first things we knew we had to do was increase the revenue base. Now, at the end of the day in Cayman everyone will have their own view as to how we do that. Certainly, there is no other way to do it than for Government to find areas to get the money from. You just cannot print the money; you must have assets to back the money. The Government has to raise the revenue. So we see that the first fundamental has been addressed and we are back here, twelve months later, without new revenue measures. So, Madam Speaker, on the one end we have addressed the revenue side, and on the other end we have held the reins tight so that we could deal with the expenditure side in the short term.

The Government is committed to the logical and systematic way announced by former Governor Smith as to how to deal with a civil service. So we are not just sitting here feeling good that we have raised enough money so we can just leave the civil service alone. The civil service has to continue to undergo change, and change for any organisation is healthy. When Governor Smith outlined the process where you look at a service and ask if it is necessary, yes or no, that has to be the first port of call. That is the first question asked. If the answer is yes, the next question is, Should the government be providing it? Is it something that the private sector is able to deliver more efficiently? If the answer to that is no, is government structured in the right way to do it? Should we restructure ourselves in another way to deliver those services?

So we dealt again with the biggest area in the Government in that regard, Health Services. We made the decision that the Government should be providing health services in the Cayman Islands. We made the decision that the Government of the Cayman Islands

should be the ones that run the Hospital, but we then went another step down on the floor chart and asked: Are we structured in the efficient way to deliver those services? The answer to that was a resounding no. So the Minister responsible for Health brought a Bill to this Legislative Assembly to take the health area and create a Health Services Authority.

So we have gone down that road. All the benefits of that will not be recognized in the first two, three or four years, but it is a step down the right path.

In regard to budgeting, we have looked at this whole issue as a Government and have said we had to deal with financial mismanagement.

The Speaker: Is this a convenient time for the luncheon break?

Mr. Rolston M. Anglin: Yes, Madam Speaker.

The Speaker: We will now break and reconvene at 2.15 pm. You have one hour remaining.

Proceedings suspended at 12.45 pm

Proceedings resumed at 2.39 pm

The Speaker: Please be seated. Proceedings are resumed.

The Second Elected Member for the district of West Bay continuing his debate.

Mr. Rolston M. Anglin: Thank you, Madam Speaker. I was about to switch gears as we took the luncheon break, but before doing that I would like to re-emphasise a number of key points.

In this exercise of debating a budget we have to look at the key factors that I spoke about: the financial position of the Government, how we get there, what we do once we are there, especially in the instance when we adopt a particular position. Of course, it is inevitable over time that, as governments change we get different positions that have been inherited.

Madam Speaker, I believe that we have come a long way in one year. I believe the fiscal performance of the United Democratic Party is one that is highly commendable. We have shown that by decisive corrective measures one is able to effect fundamental change even when it comes to such a large, diverse body like the government.

It is evident as we drive around and see the projects that are underway, as we hear about others that want to come on stream in terms of hotels, office space developments that there is much investor confidence. In fact, in my constituency of West Bay, we have had the first real emphasis of commercial development in the district's history. We have at the four-way stop a total redevelopment and face lift, and just in the corner near the John Gray Memorial

Church we have what will become officer towers. Madam Speaker, this is something that bodes well because, certainly, one of the things that we have all complained about is the congestion in George Town and the amount of time it takes to get to George Town in terms of traffic jams. The long-term vision is to have new road corridor that goes from West Bay into George Town, then from George Town up through Bodden Town and further into East End. However, of course, that is the long-term. Certainly, it is healthy for the Government to encourage this sort of small-scale commercial development in the other districts. If people are able to stay closer to home and go to work and try to relieve some of the stress and burden from the central business district of George Town, this is something that would be most helpful and most useful.

Madam Speaker, I will not get into detail with tourism, but I will reiterate the point that the hard work and diligence of the Leader of Government Business has allowed us to be in a position to have had the fortune of increased cruise capacity and increased cruise traffic that has kept us afloat. If anyone doubts that, one just needs to speak to the people who are involved in the tourism industry, especially those who are involved in areas of tours on land and sea. They will quickly tell you that the business they once had in terms of the stay-over tourists is far off what it used to be and the cruise traffic is basically what has kept them and their companies afloat.

Of course, there are those who argue as to what the benefits of cruise tourism are; but at the end of the day a government who sits around waiting until they believe they have the perfect remedy and solution will not be a government for long. One does not find perfection in this diverse changing world even in a four-year period.

Madam Speaker, in terms of our economic development and the economic slowdown that we have experienced, cruise traffic has had a tremendous impact on our economy. In fact, a study that was carried out for Royal Caribbean Cruise Lines some years ago by the consulting firm of Price Waterhouse revealed that there was spending of somewhere around US\$75 per person in terms of cruise passengers. If you translate that into the 1.4 million that have visited and carve out the numbers that come onshore, the Florida Caribbean Cruise Association has assured us that is an area that they do keep close tabs on from port of call to port of call. Cayman is one of the highest ports in terms of disembarkation of their passengers and we are somewhere between 80 and 85 per cent.

As we move forward with our port development initiative, which is something that will be a key to our survival in this business and our ability to maintain and grow our market share, that too would increase the numbers of people that would get off. There are a lot of people in that 15 to 20 per cent who do not get off in Cayman but would if the facilities were better.

As I outlined before, some days down there it takes somewhere between an hour and a half and just

over two hours for people to get back on the ship. There are a lot of people who will not get off because of those considerations. They either will not or cannot physically stand in line for those long periods of time. So that is another key initiative that the Government is in advance stages of negotiations in terms of making that a reality.

Madam Speaker, one of the things that is peculiar about Cayman—maybe it is not but I believe it is—is just how serious people are in terms of opposing anything that they believe, for some reason, will have a negative impact on their particular business or will not benefit their business and so they do not want to see anyone else get. We had that trouble with that port. We have had lobby after lobby, and we know when we go to the Florida Cruise Association we hear the stories changing. When we sit down and talk seriously to them and they give us the information, we know what is happening on the grounds in Cayman.

There are some people on these Islands who believe they have a right to a share of the economic development. It is not that they have to work hard for it, not that the Government has to make sure that they can do as much as possible to ensure that there are opportunities created; it is just because their particular businesses are a couple hundred yards away from where a new port facility is going to be that we should not do it.

Madam Speaker, the United Democratic Party cannot and will not hold the economic future of this country at bay simply because there are small minorities who somehow believe that if we do not “cram” everyone into the North and South terminals then there should not be anything else that happens. We have to remain competitive, but more than that we have to be better than the competition.

Like I said, there are people in this country who are quite satisfied with their share of the economic pie, and unless we are trucking people in and shooting them straight out a launching ramp into their particular stores, then nothing should happen. That is not what is in the best interest of this community. We must continue to provide opportunities for all Caymanians.

Madam Speaker, when we look at this Budget we see that there were four main matters that had to be addressed. We had to look at the issues that affected the Budget, we had to look at Government's main broad objectives, we had to look at the fiscal strategy objectives, and we had to look at the financial management objectives.

In regard to the main issues that affected the Budget, we had to look back at the financial mismanagement that has taken place in terms of the boom years. We also had to look at the unsustainable approach that was taken in the development of revenue measures. We had to look at, of course, our economic downturn. We had to look at the debt burden that is there. We had to look at the increased

cost of providing essential services in this country, the increased cost of regulating the financial industry.

I mentioned earlier the gains that happened in the financial industry. However, of course, one of the key things that we will be feeling the economic effects of over the coming twelve to eighteen months is the gear-up of the monetary authority to deal effectively with the commitments that have been made to the OECD.

Of course, in terms of tourism landside, that is, air arrivals, we see that the Leader of Government Business has made tremendous strides in changing the product that he inherited because the fundamentals were not being paid attention to. There was an emphasis on spending, spending, spending, and they will come. Of course, that was not the reality and the numbers proved it. So one of the things that he had to do and the Government had to support was these fundamental changes that had to happen and continue to happen in terms of our air arrival tourism traffic.

What were our main broad-based objectives? Madam Speaker, for the second year in a row we wanted and insisted on conforming to the Public Management and Finance Law and to have a balanced Budget. We have to maintain an environment that is conducive to all businesses; we have to, of course, maintain the provision of public goods, maintain the very necessary social programs and maintain the integrity of the Cayman Islands as a leading financial services centre. All of this had to be done within the confines of a balanced Budget.

On the fiscal side, the fiscal strategy objectives, no new borrowing. It is pretty easy to achieve all of that, if we were to go out and borrow in excess of, say, \$50 million. The Government is still going through with the announced bond issue; that is a bit behind but is still something that will happen, we hope, in the very near future. We also set a limit on the capital expenditure and it has to be limited in the confines of being able to be funded by operating surplus. That is funded from the general revenue and not even borrowing for that.

We wanted to generate an operating surplus. One of the interesting things is that we wanted revenue growth, but we wanted it from increased volume and not by revenue measures. Again, that was achieved. We wanted to reduce the growth of recurrent expenditure, again, something that is key in terms of our Budget and in terms of the country. If we had continued to let recurrent expenditure spiral out of control we would have had no choice but to have done one of two things: continue to put on revenue measures and go out and borrow to cover it. We are happy to say that we can come back to this Assembly and this country and say to our people neither of those two things had to be done because we have taken the decision to control the growth of recurrent expenditures.

The last fiscal strategy was building up of cash reserves. Of course, you always want to be able to build up money for a rainy day. We do not know when we will have a natural disaster, and so we want to build toward

the requirements of the new Public Finance and Management Law. That is, the Government should have 90 days working capital. Again, I am happy to report that with this Budget we are well on our way to meeting that objective.

Madam Speaker, the financial management strategy of the Government is four-fold. Firstly, we wanted to maintain an operating surplus, in other words, not have deficit financing. We, of course, wanted to have payments on borrowing to be less than 10 per cent of revenue as called for by the Public Finance and Management Law, and that has been achieved. As I mentioned earlier, we wanted to also have an increase in the cash reserves, and again, we are making contributions in that area in this Budget.

Lastly, I deal with the managing financial risk. Madam Speaker, that is an interesting topic because one of the things that I mentioned earlier in my contribution was the notion of what would happen if we do not control recurrent expenditure whether you have to borrow to cover it or you have to raise taxes. However, one of the things we found over the years in Cayman is that the revenue measures of Government do not reach the targeted levels. That is not something that is unique to Cayman. However, in the Cayman scenario and the way in which our economy is structured and our revenue raising side of Government is structured, it does make this a lot more difficult. We are not like a lot of industrial countries that have a base population and from that base population there are a certain number of people who are working. You can stratify people in terms of their income tax bracket and you can pretty much, as a government, know that if you do 'X', 'Y', 'Z' to your tax code what the result and impact would be in terms of revenue base.

In the Cayman Islands we have a consumption-based tax model, and just because you raise taxes does not necessarily mean that you will raise the number of dollars that you raise from taxes. Of course, Madam Speaker, it all depends on the elasticity on the consumption side. You could actually find yourself in a situation where you raise your fee structure and still wind up with less money as a government.

I think it bodes well that in one year we were able to close the notorious \$50 million gap and come back to the country with no new revenue measures. That does not mean that all the revenue measures that we announced last year were introduced. In fact, there were a few that were not introduced, yet the financial position of the Government was managed well enough, from a financial risk perspective, to be able to keep the finances of the country on course. It was done through a tight rein on the expenditure side.

Madam Speaker, to name three areas from the last budget, the second phase of the Health Services fees was not introduced, the garbage fees

were not introduced, and the parking fee was not introduced. Nonetheless, we still find ourselves in a position where we do not have to go back and reintroduce those particular measures and this year's Budget will still perform well. It will perform well in real terms and outperform budgets in the past few years. It was achieved by controlling the expenditure side.

Madam Speaker, we do have a lot of work to be done. I say to our private sector partners that it is quite evident that this Government is serious about financial reform and about discipline in terms of our fiscal affairs. We, I think, have brought the country much further than many thought in a very short period of time.

One very interesting point about this Budget is that this is the first six-month budget in recent memory. Of course, it is a six-month Budget because we have changed the Government financial reporting year-end. The financial reporting year-end of the Government has been moved from 31 December until 30 June. The Budget that we are currently debating will run from 1 January 2003 until 30 June 2003 and then we will have another budget running from 1 July 2003 through 30 June 2004. So that will actually be a full-year budget.

Madam Speaker, I know that one of the things that the Honourable Third Official Member mentioned in his Budget Address, but that would be conveniently overlooked and would be skewed by the Opposition, is the fact that we are projecting a large surplus. However, he did take time to point out that it is projecting a large surplus because we know that some 60 to 70 per cent of government revenue is earned in the first half of the year. In other words, this six-month Budget that we are looking at, we are going to collect some 60 to 70 per cent of the revenue that we would actually collect for the calendar year 2003. He has made it quite clear that that projected surplus is there to be able to assist the Government to get through the end of the year and into the end of 30 June 2004 year-end.

Let me say that again, Madam Speaker: this is a six-month Budget. The six-month Budget runs from 1 January 2003 through 30 June 2003. The majority of government revenue is collected (some 60 to 70 per cent) in the first half of the year. So we would have only incurred half the expenditures and collected 60 to 70 per cent of the revenues. Naturally, you would have an unusually high surplus position. That unusually high surplus position will be used to fund the 30 June 2004 fiscal year.

I know that will be one point that they will come out with, with all the guns blazing on. However, the Honourable Third Official Member mentioned this and he went to great lengths to mention this, and now I am mentioning it again because it is an important point. It is an important point because the Government has factored in the surplus that we will be taking in to 30 June 2004 year-end in regards to the finances of the country. So the next full-year budget will be the next budget we will bring to this Honourable House.

Madam Speaker, as I said, in one short year we, the United Democratic Party Government, decided

that we were in the ring with the bull and that we were not simply going to wave the red cloth about as a matador does and pretend that is leadership. We took the bull by the horns. The finances of any community are of critical importance. You can talk about all the things you want to talk about. You can talk about education, health services, policing, fire protection customs and immigration. You can talk about all these things but you need the funding to implement the strategies. You need the funding to effectively deliver these public goods. That is one of the reasons that we paid so much attention to so to ensure that we got this country back on a fiscally prudent track.

If we look, for example, at personal emoluments the total in the Budget, we will see a trend over the last two budgets that the United Democratic Party has produced to that as a percentage of revenue, has declined. It is quite easy to play up to the civil service in terms of the salaries. It is quite easy to play that type of politics. We would be a very popular Government if we decided that we were going to give everyone a 10 per cent raise. That is the largest voting block in the country. Real nice, easy decision to make. It gives you a lot of popularity and people love you. However, we are in this because we want the best for this country and we recognize that we must be fiscally prudent, that everyone has to recognise the urgency of the situation that we are in. We must continue along this track.

We are on the right fiscal track and we have the right fiscal strategies. We implemented the revenue measures that were so desperately needed last year. We did it from the sector of the economy that we felt could bear the brunt better than any other sector. We can argue about that until we are blue in the face, but I know this much: we could not go back to increasing spear gun licenses, to increasing driver's licenses, to increasing taxi licenses, to increasing duties. We could not do that last year. We refused to do it. That or borrowing was the easy way out.

I think it is clear that after one year it is quite evident the very difference you get in the results when you compare the United Democratic Party leadership to that which was provided by the First Elected Member for George Town.

Madam Speaker, personally, I take anything I do very seriously. I was convinced when I came to this Legislative Assembly and said we have to have a change in leadership. In fact, we had to have leadership. History is already starting to prove my convictions correct and, ultimately, I am confident will go on to prove them even clearer to the naysayers. We had to have it, Madam Speaker.

We are now seeing the benefits of having it. There are those who said, *'Well, you know we only gave the First Elected Member for George Town a year'*. Sure, we gave him a year. We have now given the First Elected Member for West Bay a year. I do

not think that I would like to even, right now, compare the results. They are like night and day.

Madam Speaker, I came to this Legislative Assembly in early 2001, just after being elected. I got up and defended a particular budget that I had no real tangible involvement in. I was not involved in the meetings that were held with the private sector, I heard about them sometime later. I was called to the Glass House with a budget that had been prepared with a number of fees. We tinkered around with a couple of fees and said, *'Okay, maybe we should not do driver's licenses so high, and this so high'* and that was it. That was the extent of my involvement. There is no one who is elected to this House who can say otherwise.

So I came here with many good intentions; I came here to utilise the skills that God allowed me to acquire over my life and I did not get an opportunity to use them. It is just like a company. What good is it to have a manager if that manager is not going to utilise the skills of those around him? It is the same thing with a country, except on a much greater scale. All of our futures are on the line; all of our children's futures are on the line.

We go from a situation where we come out to the country and borrow \$55 million, the majority of which to cover recurrent expenditure. Madam Speaker, we, of course, went down the line and showed, from our perspective, what led us up to that point. We had seen that revenue had certainly under-performed the expectations for two consecutive years. The economy was in a recession from early 2000, and that was not properly addressed in the 2000 Budget. We also now come to understand that the Economics and Statistics Office is still not as involved in the budgetary process as they should be, which is something again that the United Democratic Party is actively working to address, to be able to provide guidance notes and base information that departments so desperately need when developing their budgets.

For example, say the collective customs is asked, *'What is your revenue going to be?'* They are not economists and they do not have financial backgrounds. They will look at what has happened over the last couple of years. If no one says, *'Look, things are changing, economic activity is slowing down, here is all the variables you now have to consider,'* naturally projections are going to continue to look "rosy".

Without digressing too much on that point, we appreciate that was a real problem we had. In fact, when I mentioned that we still have a lot of work to do, that is a key part of the work that has to be done. If you cannot forecast properly, how can you run the Government? How can you run the country effectively?

If, for example, Foster's Food Fair-IGA, Kirk Supermarket & Pharmacy, Hurley's Marketplace, or any other business in this country, cannot budget properly and have a reasonable idea as to what the income is going to be, they will probably wind up with an inefficient operation and possibly not achieve either revenue or profit targets.

Madam Speaker, this is an area that the United Democratic Party Government is actively working on and seeks to remedy and assist. It is not that we do not have the resources in the civil service to do it. I am convinced that we do have the resources within the economics and statistics areas. It is a matter of utilising those resources and making sure that Government departments talk to each other and that everyone is involved in a coherent policy of developing this country's budget. That is what the United Democratic Party is actively working on, and we are starting to see some of the benefits of that.

Unfortunately, the benefits will not come to total fruition until, I would say, the next two to three years. That is when we will really see all of the benefits, from making sure that we have a coherent direction in terms of the Government, from the policy standpoint and the information standpoint.

Anyone who attempts to make decisions in a vacuum without the necessary and proper information more than likely will make an incorrect decision. You might just happen to guess and get it right, but when it comes to our country, guess work is not good enough; we must make well-informed decisions.

We are under the right leadership. From November 2000 to November 2001 the Cayman Islands was absent of leadership, AWOL (absent without leave) It was not there. I am not here to be in a popularity contest; I am here to try to build a better Cayman and try to make sure that all our children and grandchildren will inherit a Cayman worth passing on. It is about legacy. We must provide the legacy.

Madam Speaker, we are moving in the right fiscal direction. We, in the Government, have committed to not having deficit spending and debt-driven budgeting. Deficit spending is an unfair re-allocation of the fiscal resources of tomorrow to today. In other words, it is like going into the future, taking the money that should be spent on our children and grandchildren's health care, education and policing and spending it today. Why? Because we can do it. Because we have the authority to do it let us just do it. Let us not upset anybody. Let us not talk about revenue measures or any of that stuff.

Madam Speaker, November 2001 will indeed go down as a very significant year in the history of these Islands. I am not so much worried about what the Opposition thinks of me today. I know that my actions were the right ones for this country. I was not satisfied to go to the polls in 2004, criticise and talk about what could have happened or should have happened when I was here and had the opportunity to make it happen. Government is about making it happen. There are too many things that are not within our control, but for those things that are in our control we have to make it happen. You must have leadership. You cannot just go out and

borrow to fund our free spending of today. We cannot do that. The United Democratic Party Government, I am happy to say, has made a very loud statement. We contained the spending, we raised the revenues that we needed to cover expenses and we are moving forward in a positive fashion.

Three former Ministers decided that they were going to take a calculated risk. The day before the Budget they decided that they were going to "hit the press" and talk about the lack of leadership. They come to the Budget presentation thinking they were going to see something other than what they thought. They thought they would come here and see new revenue measures and all these different things that nobody in Cayman wants. They came and I think they were mightily disappointed. This Government has held the financial reins of this country in check.

It was quite comical for those three gentlemen to write such a letter which talked about, *'The country needs experienced leadership.'* We are now here, as the United Democratic Party, forming the Health Services Authority to deal with the George Town Hospital which, financially, was an absolute disaster.

We currently have a Select Committee of this whole House whose purpose is to reverse the travesty that has been thrust upon the public of this country in terms of the Health Insurance Law. What about Cayman Airways Ltd? Can Mr. Jefferson still account for the \$9 million at Pedro St. James? I say that the country finally has good leadership, but it is not surprising that those three former Ministers would not know it when they look at it. They mismanaged this country, so therefore, how could they then be able to see what good management is? I believe that we are going along the right road. We are in the middle of an important milestone in our history. We have kept the financial reins of this country through effective leadership.

People can talk about what they want to talk about, but you need money, as a government, to effect all the things that government needs to do in a country. One just has to pick up the newspaper, listen to the news and look at our state as a society. Look at drug use, look at teenage pregnancy and look at high school drop-outs. We only have to look at this and see the very necessity of making the best use of every cent that the Government makes.

Madam Speaker, this Government has provided the type of leadership that, if it were in place from top to bottom during the boom years, we would have significant amounts on general reserve. Instead, we are here, in the throws of a recession, trying to build up general reserves because we recognise that if something happened such as a hurricane in Cayman we, as a Government, would not be financially able, other than with outside assistance, to deliver critical services. That is how low the general reserve figures have gotten in the Cayman Islands.

The Speaker: Honourable Member, you have 12 minutes remaining.

Mr. Rolston M. Anglin: Thank you, Madam Speaker.

Madam Speaker, that is of critical importance. You must be able to not only make it today but have something set aside—for lack of a better term—for a “rainy day”. We do not know when a rainy day will come.

Madam Speaker, other Members of the Government will be going into much more detail in terms of the specifics in this Budget. We know what the strategy will be. I know as well because I have been here now three budgets in a row. The strategy will always be to criticise and nitpick, which is just a part of the political process of this Legislative Assembly. The public should not be alarmed this year to have the Opposition get up and do that.

However, one of the things that they cannot argue with is the fact that clear, decisive fiscal measures were taken last year and we are reaping the benefit today. It cannot be argued that we have not effected the type of leadership change in the Cayman Islands that has afforded us the ability to come here with a Budget without revenue measures.

Madam Speaker, it is quite interesting, again, as Margaret Fairless Barber said, **“To look forward for a while is to refresh the eye, to restore it and to render it more fit for its prime function which is looking forward”**. I look at the *Hansard* from 12 December 2001 and see the contributions that were made by the Opposition, mainly the interim Leader. I would just like to quote a brief comment that was made.

The Speaker: Please proceed, but could you quote the date of the *Hansard* and the page?

Mr. Rolston M. Anglin: It is 12 December 2001, page [1360]. I quote, **“Madam Speaker, let me make this very, very clear. When it comes to what is called courage, I believe that it has to be mixed with logic and looking at the specific circumstances which obtain at any given time. If it is thought any dealings I had with that same financial sector was not the way that it should have been dealt with, then perhaps it is quite easy for them to follow the course that they have taken because they now have ample opportunity to do so. Although I did not get the opportunity to prove them right or wrong, one way or the other, this time around I have had a bit of tenure and a better understanding of the situation.”**

I know those at home probably could not follow that, so I will try to decipher: in a nutshell, no leadership. Bottom line, United Democratic Party equals leadership and corrective decision taking. We called in that same industry and we asked them to tell us how to raise the revenues that we needed as a Government. We were not going to sit down and twiddle our thumbs like little boys on the street corner waiting for someone to come and play with

them. We had to take the decisions that we needed. This just drives at the heart of what has caused the Cayman Islands to be in the fiscal position that it is in, which is not being able to look people squarely in the eye and say, *‘Look, here is the financial reality, this is where we have to get to. You either are going to help us or we are going to have to do it all on our own’*.

We had meeting after meeting. Even after we introduced the budget we had meetings. At the end of the day, the financial industry from which I have come would be the first one to throw a stone if we were to wind up continuing to borrow so much that the United Kingdom Government would have had to step in. They would have because we would not have addressed the revenue side of the budget and we would not be able to deliver those critical services we need. Cayman has to remain a good place to work and live. That is the bottom line.

We can talk about all the fluff we want to, we can talk about specific revenue heads in budget, we can talk about all these things; but Cayman has to remain a good place to live, raise a family, work, a safe place for visitors and a good place for the financial services community to live.

I would say, in my humble submission, if you took a poll now of that same sector of the current leadership you will see that the mindset has changed. You will see that they now recognise that Cayman needed corrective measures when it came to the fiscal side of the country. Madam Speaker, the bottom line is that when you are in a leadership position you have to lead in a considered and reasonable way.

The Speaker: Honourable Member, you have 5 minutes remaining.

Mr. Rolston M. Anglin: Thank you, Madam Speaker.

We have much work to do on the fiscal side. We have a long way to go in terms of the implementation of the financial management initiative. Sometime around April/May of next year we will be presenting the full-year budget.

We are at a particular point in time where the country is starting to turn. These things do not happen overnight, but certainly the strides that have been made in a year have certainly exceeded my expectations. I am sure they have exceeded the expectations of many of the other Members, as well as many people of the community.

Madam Speaker, we, the United Democratic Party, are focused on effective leadership, effective decision making, ensuring that the Legislative Group moves as coherently as possible and ensuring that the financial future of this country is maintained and enhanced. As they say in the accounting world: that is the bottom line.

Madam Speaker, I would like to thank you and the Honourable Members because I believe that the country has seen two good budgets in a row and, God willing, we look forward to our next budget in April/May

2003 which will deal with the 30 June 2004 year-end. As I said, investor confidence is up and the financial services area is repositioning itself continually. I have outlined the statistics and I have shown that the sector has growth in very important areas. The Government will continue to work along, listen to the industry and build it up because it is in the best interest of the country, of the community and of the future generations.

Madam Speaker, I wish God's richest blessings on our Cayman Islands. Thank you.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Last call. Does any other Member wish to speak?
[Pause]

The Speaker: It was the last call if any other Member wishes to speak. Is it the wish that we take a break at this time?

Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, there are not a lot of Members in the House. In fact, there is only one Member from the Opposition, and I was hoping that they would rise. I wonder if we could take the afternoon break at this point.

The Speaker: If that is the wish of the House we will take the afternoon break at this time.

Proceedings suspended at 3.40 pm

Proceedings resumed at 4.14 pm

The Speaker: Does any other Member wish to speak?

If no other Member wishes to speak, I shall call upon the Leader of Government to exercise his right of reply.

Hon. W. McKeeva Bush: Madam Speaker, this is somewhat an historic day in that the Government produced a Budget. We have a two-party system, or so they say, and the Opposition refuses to be here to debate the Budget.

I think that we have come a long way, not as a United Democratic Party but as a country. When we took over the Government in 2000 there was a serious downturn in the economy at the time, and that government experienced it and there was unemployment. The country felt those shocks. There was a deficit and the reserves were very few. That was in November 2000.

We elected a leadership for the country and the Executive Council, and the country languished in certain areas for the want of leadership for that entire year. The Government produced a Budget with \$55 million of borrowing and also increased revenue measures. It was obvious that the country was in a

tailspin and going backward and we had to make some changes.

On taking over the Government on 8 November 2001, when there was supposed to be a budget produced by the then Leader of Government, the First Elected Member for George Town, there was no budget and we should have been presenting a budget that very week. Well, our team went to work and we produced a budget that had revenue measures but on the financial industry, financial services.

Making that decision was not easy because no politician likes to raise revenue fees. Nevertheless, we had to and we went forward with a determined management. We cut back on expenditure, the reins were kept in check and we did not borrow. That helped us to pay down on the country's loan position, so for the first time in many years the actual loan decreased. That is a good position for the Cayman Islands because our loan position actually increased.

Coming up to the Budget before us, we have presented what, I believe, is a very realistic Budget. We have a revised fiscal system where transparency and accountability is the policy by Law. We have presented a balanced Budget with improved reserves. In the last couple of years we have had a reserve position of probably 8 to 10 days. Now we have in the region of 60 to 68 days in general reserves. We are not borrowing any money, and there are no new revenue measures.

Madam Speaker, I see why the Opposition Bench is empty. The Opposition have left the House because

they could find no fault with the Budget. They could not bring a case to the Legislature where they know they could easily be challenged and the Budget could be defended. So they dare not speak. At this very minute you have two or three of them running around the halls of this Legislative Assembly hiding. Is that not a shame and a disgrace for an Opposition? I note that I have lured at least two back into the Legislative Assembly Chambers here. Madam Speaker, it is a shame and a disgrace on a Parliamentary Opposition who would not even come in to make up a quorum to get the Legislative Assembly started.

Madam Speaker, as I said, the Budget contains no borrowing, no new revenue measures and that took good, decisive management. I know that the Opposition is going to make some sort of radio or television statement which they believe will not be challenged, but they have another guess coming if they believe they will go to the media and not be challenged. I say this, Madam Speaker: the Opposition have to carry on better than they are doing. This is not the United Democratic Party; this is the Cayman Islands. Yes, we are the Government, but it is a shame when you come to this point and you see this kind of action—the Opposition Bench empty.

Madam Speaker, the Government is proud to put forward this Budget. We are convinced that it can be sustained. I have heard the Opposition say that the Budget can be this way because the revenues will be

paid in the first part of the year. However, when you look at the way in which the Budget is presented, nothing can be hidden here. Every item is accounted for, and it shows that this trend does not stop at the half-year come 2003, God willing. The Budget shows that it goes on to 2004 and beyond, barring any unforeseen national disasters where we would have to expend larger sums of money than we are projecting.

This is not just saying "good" to our citizens; this is saying to the international community that the Cayman Islands are back on track financially. As far as I am concerned, I say '*Hip, hip, hooray!*' to the Cayman Islands, not for us as a Government but for these Islands. Internationally we can now say that we are building our reserves, we are not head-over-heels in debt and increasing debt, we are not penalising or giving our citizens a hard time in what is a hard global situation financially by not increasing revenues. This is a good Budget, it is a good position to be in and the only reason why the Opposition, the Leader and his advisor, the Second Elected Member for George Town, are not here is because they could not successfully challenge the contents of what is before them.

Madam Speaker, I will listen to what they have to say and they will be challenged.

I want to thank my colleagues on Executive Council for their part that they played in the management of this country over the past year. I again want to thank those who have worked diligently the last several months to produce this Budget, some Civil Servants who are still in the Assembly now. I want to thank our Back-Benchers, who also play their part, who question, who keep a check on expenditure, who look at projects and question them and the need for expenditure. I am proud to be associated with a group of professional representatives who can manage the country from that respect.

Madam Speaker, the Budget contains some good projects for the country. I will give the figures later on, but we have education buildings and a road program. All of the money cannot be spent this half-year, but we will begin to systematically plan the projects and the expenditure to meet the Budget. There are projects for health services, there are projects for community development, and Cayman Brac and Little Cayman are not left out. I believe, as a Government, we have done well. I would have loved to come here and say that we have \$100 million in general reserves, but that is where we are hoping to get one of these days.

Madam Speaker, I certainly want to thank you for your diligence and your professionalism in the Chair, and I would also like to extend our thanks to the staff during this new Budget presentation.

All that is left for us to do at this time is to move now into Finance Committee, which we propose to do tomorrow morning at 9 o'clock.

Once again, let me say it is a shame and a disgrace to be moving into a two-party system, and have an Opposition that is so lame that they cannot come to this House and put their case forward. Shame on you all, you, the Opposition!

The Speaker: The question is that a Bill shortly entitled The Appropriation (January to June 2003) Bill 2002 be given a Second Reading.

Mr. V. Arden McLean: Madam Speaker.

The Speaker: The Member for East End.

Point of Clarification

Mr. V. Arden McLean: Thank you, Madam Speaker. I am just asking for some clarification here.

Is it not the case that the Honourable Third Official Member who moved the Bill would wind up?

The Speaker: Thank you. The winding up was just carried out by the Leader of Government. The question is—

Hon. W. McKeeva Bush: Madam Speaker, before you put the question—

The Speaker: The Leader of Government.

Hon. W. McKeeva Bush: Thank you, Madam Speaker.

To make it absolutely clear, when we took the Budget on Friday it was made clear what was going to happen and what the new procedure was. So the Opposition may try to say that they did not understand and it does not surprise me that they do not understand.

Mr. V. Arden McLean: Madam Speaker.

The Speaker: The Member for East End, I actually recall making a ruling on this very same procedure after having done extensive research last year on the past ten years. At this time I will put the question.

The question is that the Bill shortly entitled The Appropriation (January to June 2003) Bill 2002 be given a Second Reading.

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

Ayes and Noes.

The Speaker: The Ayes have it.

Hon. W. McKeeva Bush: Can we have a Division, Madam Speaker?

The Speaker: Certainly. Madam Clerk, please call the Division.

The Clerk:

Division No. 9/02**Ayes: 8**

Hon. W. McKeeva Bush
 Hon. Linford A. Pierson
 Hon. Gilbert A. McLean
 Hon. Donovan Ebanks
 Mr. Rolston M. Anglin
 Capt. A. Eugene Ebanks
 Mr. Cline A. Glidden, Jr
 Mr. Lyndon L. Martin

Noes: 2

Ms. Edna M. Moyle
 Mr. V. Arden McLean

Absent: 7

Hon. Roy Bodden
 Dr. the Hon. Frank S. McField
 Hon. David F. Ballantyne
 Hon. George A. McCarthy
 Mr. D. Kurt Tibbetts
 Mr. Alden M. McLaughlin, Jr.
 Mr. Anthony S. Eden

The Speaker: The result of the Division: 8 Ayes; 2 Noes; 7 Absentees.

Agreed by majority: The Appropriation (January to June 2003) Bill 2002 given a Second Reading and stood committed, together with the estimates, to the Standing Finance Committee.

The Speaker: May I have a motion for the adjournment?

ADJOURNMENT

Hon. W. McKeeva Bush: Madam Speaker, before I move the adjournment, let me apologise for the absence of the Honourable Financial Secretary and the Honourable Attorney General, the Second Official Member and the Third Official Member.

As Members might be aware, they do have an important issue dealing with the European Tax Savings Initiative and they are at a meeting presently. They could not be here for this aspect of the Budget.

Madam Speaker, the Minister of Education is on official business overseas and the Minister of Community Development is in a meeting. So, Madam Speaker, I just thought I would let the House know where our Members are.

I now move the adjournment of this Honourable House until the Finance Committee has completed its business and reports back to the Legislative Assembly.

Madam Speaker, to remind Members, and the two Opposition Members who are here can let their colleagues know, Finance Committee will begin at 9 o'clock tomorrow morning, that is, Thursday morning.

The Speaker: The question is that this Honourable House do now stand adjourned until Finance Committee completes its business on the intentional agenda.

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

Ayes.

The Speaker: The Ayes have it.

At 4.35 pm the House stood adjourned until the completion of the Standing Finance Committee meetings on the Bill.

OFFICIAL HANSARD REPORT
MONDAY
2 DECEMBER 2002
10.59 AM
Sixth Sitting

The Speaker: I will ask the First Elected Member from George Town to grace us with prayers.

PRAYERS

Mr. D. Kurt Tibbetts: Let us pray.

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

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

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

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

Proceedings resumed at 11.03 am

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

Apologies

The Speaker: Please be seated.

I have received apologies from the Honourable Second Official Member who will not be attending today's Sitting.

Madam Clerk.

**PRESENTATION OF PAPERS
AND OF REPORTS**

The Draft Development and Planning (Amendment) (Extension of Temporary Provisions) Regulations 2002

The Speaker: The Honourable Deputy Leader.

Hon. Linford A. Pierson: Thank you, Madam Speaker. I beg to lay on the Table of this Honourable House, The Draft Development and Planning (Amendment) (Extension of Temporary Provisions) Regulations 2002.

The Speaker: So ordered. Does the Honourable Minister wish to speak thereto?

Hon. Linford A. Pierson: Madam Speaker, not at this point; at a later point.

The Speaker: Thank you.

(Pause)

The Speaker: The Honourable Deputy Leader.

Suspension of Standing Order 24(5)

Hon. Linford A. Pierson: Madam Speaker, I beg to move the suspension of Standing Order 24(5) to allow for The Draft Development and Planning (Amendment) (Extension of Temporary Provisions) Regulations 2002 to be taken during this Meeting.

The Speaker: The question is that Standing Order 24 (5) be suspended to allow the Honourable Deputy Leader to bring his Motion within the ambit of that section. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Standing Order 24(5) suspended to allow the Honourable Minister to bring a Government Motion, for the House to approve the Draft Regulations, without the required five day's notice.

**QUESTIONS TO HONOURABLE
MINISTERS AND MEMBERS
OF THE GOVERNMENT**

The Speaker: Perhaps for clarity I should ask again: Would you still wish for me to continue referring to you as the First Elected Member or as the Leader of the Opposition?

(Inaudible response)

The Speaker: The First Elected Member for George Town.

As we have reached the hour of 11 am I should call on the Honourable Deputy Leader to move the suspension of Standing Order to allow Question Time to go beyond the hour of 11 am.

Suspension of Standing Order 23(7) and (8)

Hon. Linford A. Pierson: Madam Speaker, I wish to move the suspension of the relevant Standing Orders to allow for Question Time to go beyond the hour of 11 am.

The Speaker: The question is that Standing Order 23(7) and (8) hereby be suspended to allow Question Time to be extended beyond the hour of 11 am. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Standing Order 23(7) and (8) suspended in order for Question Time to continue beyond 11 am.

The Speaker: First Elected Member from George Town.

Question No. 74

Carried forward from the Third Meeting of the Legislative Assembly

No. 74: Mr. D. Kurt Tibbetts: asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture, to give a breakdown of the students' enrolment for September 2002 for each Government Primary School, the George Hicks High School and the John Gray High School by year, including a comparison of 2001 enrolment.

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

Hon. Roy Bodden: The following is a breakdown of students' enrolment for September 2002 for each government primary school in Grand Cayman and the George Hicks High School and John Gray High School by year, and a comparison of 2001 enrolment.

Primary Schools Enrolment 2002

Bodden Town Primary	
Year 1	33
Year 2	39
Year 3	27
Year 4	25
Year 5	31
Year 6	26
Total	181

East End Primary	
Reception	10
Year 1	16
Year 2	20
Year 3	18
Year 4	18
Year 5	15
Year 6	16
Total	113

George Town Primary	
Year 1	60
Year 2	83
Year 3	75
Year 4	75
Year 5	85
Year 6	67
Special Education	2
Total	447

John A. Cumber Primary	
Year 1	82
Year 2	70
Year 3	81
Year 4	82
Year 5	84
Year 6	75
Total	474

North Side Primary	
Reception	9
Year 1	16
Year 2	15
Year 3	7
Year 4	9
Year 5	14
Year 6	9
Total	79

Red Bay Primary	
Year 1	84
Year 2	83
Year 3	74
Year 4	77
Year 5	54
Year 6	87
Special Education	15
Total	474

Savannah Primary	
Year 1	44
Year 2	52
Year 3	48
Year 4	46
Year 5	46
Year 6	52
Total	288

Creek Primary	
Year 1	9
Year 2	10
Year 3	12
Year 4	10
Year 5	15
Year 6	17
Total	74

Spot Bay Primary	
Reception	4
Year 1	6
Year 2	7
Year 3	0
Year 4	7
Year 5	3
Year 6	7
Total	34

West End Primary	
Reception	6
Year 1	12
Year 2	0
Year 3	10
Year 4	8
Year 5	3
Year 6	9
Total	48

The High Schools —Enrolment – 2002

George Hicks High - 2002	
Year 7	361
Year 8	332
Year 9	268
Total	961

John Gray High	
Year 10	291
Year 11	244
Year 12	263
Total	798

Cayman Brac High	
Year 7	42
Year 8	22
Year 9	22
Year 10	25
Year 11	18
Year 12	25
Total	154

For 2002, there are 2,212 combined primary schools enrolment and 1,913 combined high school enrolment.

The Primary Schools—Enrolment – 2001

Bodden Town Primary	
Year 1	34
Year 2	21
Year 3	26
Year 4	26
Year 5	26
Year 6	22
Total	155

East End Primary	
Reception	9
Year 1	16
Year 2	21
Year 3	19
Year 4	18
Year 5	15
Year 6	15
Total	113

George Town Primary	
Year 1	70
Year 2	71
Year 3	80
Year 4	84
Year 5	63
Year 6	67
Special Education	7
Total	442

Creek Primary	
Reception	7
Year 1	8
Year 2	11
Year 3	10
Year 4	13
Year 5	16
Year 6	13
Total	78

John A. Cumber	
Year 1	69
Year 2	76
Year 3	81
Year 4	77
Year 5	75
Year 6	80
Total	458

Spot Bay Primary	
Reception	7
Year 1	8
Year 2	None
Year 3	7
Year 4	3
Year 5	8
Year 6	14
Total	47

North Side Primary	
Reception	12
Year 1	17
Year 2	8
Year 3	6
Year 4	13
Year 5	10
Year 6	10
Total	76

West End Primary	
Reception	12
Year 1	None
Year 2	11
Year 3	9
Year 4	3
Year 5	11
Year 6	13
Total	59

Red Bay Primary	
Year 1	83
Year 2	71
Year 3	77
Year 4	58
Year 5	87
Year 6	87
Special education	13
Total	476

Enrolment for all primary schools combined for 2001 was 2,199.

The High Schools-Enrolment - 2001

George Hicks High	
Year 7	321
Year 8	272
Year 9	285
Total	878

Savannah Primary	
Year 1	54
Year 2	47
Year 3	43
Year 4	52
Year 5	52
Year 6	47
Total	295

John Gray High	
Year 10	246
Year 11	269
Year 12	274
Total	789

Cayman Brac High	
Year 7	20
Year 8	21

Year 9	28
Year 10	20
Year 11	25
Year 12	27
Total	141

For the high schools combined the grand total for 2001 is 1,808 students

As indicated by the above data generally there is a 2 per cent increase in the student population in the government primary schools in Grand Cayman, this year. The most significant increase is that the Bodden Town Primary where this year's enrolment increased from 155 to 181 making for an enrolment of 16.8 per cent increase. This increase affects mainly years 1 and 2 classes.

At the John A. Cumber Primary there was also an increase in their student population from 16 to 474, while Savannah Primary school students' enrolment dropped from 294 enrolled last year to 288 this year.

North Side Primary school's gain of 3 students also represents a 3.9 per cent growth in the student population over last year's enrolment. East End, Red Bay and George Town did not experience any significant change in their student population. With regards to the high schools, George Hicks High school has recorded its highest year 7 students intake this year, at 361 students. Consequently, this year's student population has increased significantly from the last year's figure of 878 to 961 this year. John Gray High school however, has only experienced a slight increase of 9 students. In Cayman Brac, each of the primary schools experienced a fall in their enrolment with Spot Bay and West End falling by 27.7 per cent and 18.6 per cent respectively.

The Speaker: The First Elected Member for George Town

Supplementaries

Mr. D. Kurt Tibbetts: Thank you. Can the Minister state if during the registration period leading up to the final enrolment numbers whether there was any applications for students to be enrolled in the primary schools and or either one of the high schools, which had to be rejected simply because of numbers.

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

Hon. Roy Boddén: Thank you, Madam Speaker. I am happy to say that there has been no instance of students being denied improvement simply for the sake of numbers.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Minister state with the 2002 numbers, for example, in looking at George Town primary school where we see year 1 is 60 and year 2 is 83—so that the question does not get too long—using those two numbers and comparing them with all the rest, is it fair assumption to say that year 1 at George Town Primary would have two streams, year 2 with 83 would have 3 streams and therefore, fair to assume (throughout these numbers so that we do not have to get into the individual ones) that any number above 60 would mean that there would be 3 streams for that class?

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

Hon. Roy Boddén: Thank you, Madam Speaker. I am informed that this does not necessarily mean that there may be 3 streams, it could be 2 and a smaller group, depending on the needs and circumstances that the teachers have accessed there to be.

The Speaker: Are there any further Supplementaries? The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Perhaps I can go on to ask the Minister if, at primary level, there are any records which would indicate which class has the most students and what that number is.

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

Hon. Roy Boddén: Thank you, Madam Speaker. The highest numbers in classes are experienced at the Red Bay primary school. This year there are classes with over 34 children per class.

The Speaker: First Elected Member from George Town.

Mr. D. Kurt Tibbetts: I also noticed that the Red Bay primary school for the special educational needs category was 13 for 2001 and for 2002 it is 15. Could the Minister explain—obviously this is not something that is new to that school—exactly what is the plan in place which specifically addresses these circumstances?

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

Hon. Roy Boddén: Thank you, Madam Speaker. It is the practice of the Education Department to place in all primary schools small units which deal with children with special educational needs when they are identified. The practice goes further, in that, once the students have the kind of exposure with the objective of remediation and treatment of the needs then they are integrated back into regular classes for periods of

the day so that there is a reduction in any attempt at stigmatisation.

The Speaker: The First Elected Member from George Town.

Mr. D. Kurt Tibbetts: Thank you. Can the Minister state, given the historical data that is available, when transition moves from the primary level to the secondary level, if the special attention needed during the primary stages is also dealt with when these specific students move into the secondary level? That would then assumedly be at the George Hicks.

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

Hon. Roy Bodden: Thank you, Madam Speaker. The Honourable Member will know that it is the objective of the system to eliminate these kinds of special educational needs as early as possible and the objective is always to eliminate them by the end of primary school stage, if not, by the end of the particular year. However, this year, because of the high numbers the success in alleviating this problem has not been as great as we would have liked. In circumstances such as this it is a consideration that we may have to implement a unit at the George Hicks High school to handle those children who arrive at that school if the numbers are significant enough to warrant the establishment of such a unit. In the meantime there is support assistance who handles that particular kind of children.

The Speaker: Lady Member from North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker. I wonder if the Honourable Minister would say whether it is only the George Town Primary and the Red Bay Primary schools that have students for special educational needs.

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

Hon. Roy Bodden: No, Madam Speaker. However, the reason why these are listed is because these cases are numerically significant and also the very nature of the special education needs is serious enough to be specially categorised. I want to also say that this year all of the schools have access to some kind of support assistance to deal with these cases.

The Speaker: Are there any further Supplementaries? The First Elected Member for George Town.

After this I will allow one more on this particular question.

Mr. D. Kurt Tibbetts: Thank you. Madam Speaker, I am just shifting from the line of supplementary that

was being asked and going to the George Hicks High school. I understand in the substantive answer where there are some 80 plus students more at the school since September than was there before. I think it is known that were some problems with some of the classrooms and they had to use space over at the Family Life Centre for classes. Can the Minister state what are the immediate plans for making sure that there is sufficient space available for the number in the classes in order to not to get to where it is a counter-productive level?

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

Hon. Roy Bodden: Thank you, Madam Speaker. The situation has evolved to the point where we were able to give up renting space in the Family Life Centre at the beginning of this school year. While it is true that the numbers have grown, the education authorities are monitoring the situation to see what may be the best short term solutions should the problem recur. The longer term solution lies with the construction of the third high school, which I have said that the government is seriously pursuing at this time to the point where we have agreed with the owners of some land to a purchase price and are in the stages of consummating the contract.

The Speaker: Any further Supplementaries? If not we will move on to the next question.

Question No. 75

Carried forward from the Third Meeting of the Legislative Assembly

The Speaker: The First Elected Member for George Town.

No. 75: Mr. D. Kurt Tibbetts: asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture, to provide a list of Tertiary Institutions that currently accept the educational provisions of the Community College of the Cayman Islands.

The Speaker: Honourable Minister for Education.

Hon. Roy Bodden: The list of institutions that accept the Community College of the Cayman Islands students is as follows in the United States: -(We have also given the guide ratings as referenced in the Baron's guide).

- Columbia University, New York – most competitive.
- DePaul University, Illinois – very competitive.
- Eckerd College, Florida – very competitive.
- Emory University, Georgia – most competitive.
- Florida A&M – very competitive.
- Florida Atlantic University – competitive

- Florida Institute of Technology – very competitive
- Florida International University – very competitive.
- Florida State University – highly competitive
- Georgia State University – less competitive
- Howard University, Washington DC – competitive
- Loyola University, Chicago – very competitive.
- Nova South Eastern University, Florida – less competitive
- Oakwood College, Alabama – competitive
- Pace University, New York – competitive
- St. Leo College, Florida – less competitive
- State University of New York – very competitive
- Stetson University, Florida – competitive
- Texas Tech University – very competitive
- University of Central Florida – very competitive
- University of Colorado, Boulder – competitive
- University of Illinois, Chicago – very competitive.
- University of Miami, Florida – highly competitive.
- University of Maryland, Maryland – very competitive.
- University of Michigan – highly competitive
- University of New Orleans, Louisiana – competitive.
- University of North Florida – very competitive.
- University of South Florida – very competitive
- University of Pennsylvania – most competitive
- University of Southern Colorado – less competitive.
- University of Tampa, Florida – competitive
- University of Tennessee – competitive
- University of Virginia – most competitive
- Washington University, St. Louis – most competitive.
- Webber College, Florida – less competitive.
- Xavier College, Louisiana – competitive.

In the United Kingdom - Birmingham College Cardiff University, Nottingham Trent University, London School of Economics, Loughborough University, University of Abberdene, University of Birmingham, University of Bradford, University of Brighton, University of Bristol, University of London, University of Essex, University of Exeter, University of Lancaster, University of Leeds, University of North London, University of Pimmoth, University of South Hampton, University of Surrey, University of Sussex, University of Wales and University of Warrick.

- In Canada – McMaster University, Queens University, University of British Columbia, University of Manitoba, University of Ottawa, Western University and York University.

The UWI accepts Community College students with the Associate Degree of Physical Science with the minimum grade point average of 2.5 into the faculties of Science and Technology, Pure and Applied Sciences, Natural Sciences and Agriculture.

The Speaker: Are there any Supplementaries?
The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. At the very end of the substantive answer it speaks to the University of the West Indies accepting students from the Community College with a minimum grade point average of 2.5. Could the Honourable Minister state, with regards to the other listing of institutions that accepts the

Community College students, which he read out, if there is a minimum GPA or whether it depends on each specific university with regards to what level of GPA each of them are willing to accept the students?

The Speaker: The Honourable Minister responsible for Education.

Hon. Roy Bodden: Thank you, Madam Speaker. Generally it is 2.0 that the College has set for itself and its students' high standards. So, the minimum accepted is 2.0 and most competitive would be 3.5 GPA.

The Speaker: Are there any further Supplementaries? If not we will move on to the next question.

Question No. 76

Carried forward from the Third Meeting of the Legislative Assembly

The Speaker: The Second Elected Member for West Bay.

No. 76:Mr. Rolston M. Anglin: asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture, if any Labour Tribunal cases are pending and, if the answer is in the affirmative, what is the status of these cases and the projected timeline for the completion of these cases.

The Speaker: The Minister responsible for Education.

Hon. Roy Bodden: When the Ministry took responsibility for this subject matter there were 188 outstanding Labour Tribunal cases requiring review. Extending as far back as 1999, five Tribunals were appointed in August this year and each tribunal has been assigned two cases per week. They began their deliberations on the 11 September 2002 and by the 15 December when they are scheduled to break for the Christmas holidays they will have completed 139 of the outstanding cases.

The remaining 49 cases should be completed by March 2003 and any cases that occurred in 2002 will be heard afterwards. Once this backlog is completed no further delays are expected. The Department of Employment Relations has streamlined the administrative procedures of the Tribunal Secretariat to improve the ability of the Tribunal to render speedier decisions.

These changes coupled with an improved conciliation and mediation process will reduce the amount of future cases that need to be sent to the Tribunals.

The Speaker: The Second Elected Member for the district of West Bay.

Supplementaries

Mr. Rolston M. Anglin: Thank you, Madam Speaker. Could the Minister state whether or not the five Tribunals appointed in August of this year are totally re-hearing these cases, or are they looking at the evidence and other matters that were already put together for each of those cases.

The Speaker: The Honourable Minister responsible for Education.

Hon. Roy Bodden: Thank you, Madam Speaker. There would be no need for the recently constructed tribunals to re-hear any of the cases which were properly dealt with and for which records had been given to the Employment Relations Department. It seems logical to conclude that the cases the new Tribunals are dealing with are those cases for which there were no judgements received by the Employment Relations Department.

The Speaker: The Second Elected Member from West Bay.

Mr. Rolston M. Anglin: Madam Speaker, I wonder if the Minister could say what has been done to try to ensure that the persons awaiting responses in terms of their cases would receive the same type of judgement that may have been indicated to them that would be forthcoming.

[Deputy Speaker in the Chair]

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Thank you, Mr. Speaker. I would assume that the same high standards will be adhered to, particularly, if what is taken into consideration is the basis upon which the complaints were made. We have to proceed on the presumption that justice is blind and I would have no reason at this point to fear that the Tribunals handing these cases now would be any less conscientious in their judgements than their predecessors.

The Speaker: The Second Elected Member from the district of West Bay.

Mr. Rolston M. Anglin: Thank you, Mr. Speaker. It is good to hear that. I wonder if the Minister could say what would happen if an employee who was involved with one of these cases died while awaiting the final judgement.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, indeed it would be unfortunate and regrettable if that were the case, but I see no reason to believe that because the person may have been deceased would be reason enough to say that justice still would not be meted out in terms of a

conscientious, fair and honest decision arrived at the Tribunal. I know of cases where people who were awaiting decisions of the Tribunal have had to leave the Island before those decisions were handed down, and in those cases, while the Ministry is at present responsible for these matters, it had nothing to do with that delay. We have been apologetic and expressed our regrets at these kinds of instances. I suppose if it was a case where someone was deceased we would have to take the same position and give the guarantee that the case would still be heard and the judgement handed down.

The Speaker: The Second Elected Member for West Bay.

Mr. Rolston M. Anglin: Thank you, Mr. Speaker. In a case where a person has been deceased, am I to understand that the judgement would still be handed down and whatever financial reward that would accrue from that judgement would go the person's estate?

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, that is certainly the case in the law of the land and it would certainly have to be in this case also.

The Speaker: The Second Elected Member from the district of West Bay.

Mr. Rolston M. Anglin: Thank you, Mr. Speaker. Could the Minister say what would happen in a case where the files of a particular hearing were lost, that is, the materials with all the evidence in it?

The Speaker: The Honourable Minister for Education and Human Resources.

Hon. Roy Bodden: Mr. Speaker, in such a case it would seem that the trial would have to be aborted because if the files were lost obviously, evidence would be lost and it would be difficult to continue in any trial.

The Speaker: The Second Elected Member from the district of West Bay.

Mr. Rolston M. Anglin: Mr. Speaker, could the Minister say who would be the person liable? Ultimately the persons would have followed the legal course in such a matter and would potentially have some benefits accrue to them. So, certainly I would hope it would not be case that if the files were lost, no one would have to compensate those persons if a decision was to be made in the favour of the employees.

The Speaker: The Honourable Minister for Education and Human Resources.

Hon. Roy Bodden: Mr. Speaker, in the absence of a legal opinion, I would hate to posit an answer. If the Honourable Member is trying to build a case that the files were lost or mishandled by the Employment Relations Department then obviously they would bear culpability. However, the files were lost by the Tribunal itself, then that clearly is a different matter. So, I would like to know specifically which instance is he referring to. Is he referring to the case of files being mishandled or lost by the Employment Relations Department or by the Tribunal?

The Speaker: The Second Elected Member from the district of West Bay.

Mr. Rolston M. Anglin: Thank you, Mr. Speaker. I wonder if the Minister could tell this Honourable House who are responsible for maintaining the files with all evidential matter that have gone before a Tribunal. Is it the Tribunal or the Employment Relations Department?

The Speaker: The Honourable Minister responsible for Education and Human Resources.

Hon. Roy Bodden: Mr. Speaker, it is obvious that once a Tribunal that operates under a chairman has concluded a matter and made the report, then that report should ideally be handed to the principals of the Employment Relations Department, ultimately for safekeeping. So, if the Tribunal Chairman does not contact—even in the event that they contact the persons involved with their findings of the Tribunal, ultimately the records will still rest with the Employment Relations Department.

The Speaker: The Second Elected Member from the district of West Bay.

Mr. Rolston M. Anglin: Thank you, Mr. Speaker.

I have been advised by a number of persons from my constituency that both matters I have asked of the Honourable Minister have occurred in a particular case against the Treasure Island Hotel, in which one of the persons is now deceased. The other four persons involved who are still alive, have been told recently by the Employment Relations Department that their files have been lost and the matter would have to be re-heard. However, of course, to crave your indulgence, Mr. Speaker, the Minister could see the great difficulty involved with this, considering the case was from 1997, if I remember correctly. Memories fade and certainly the evidence taken now would probably be somewhat different because of the fact that people's memories will fade in regards to the specifics involved with their cases. The impression that I got after trying to reach the Employment Relations Department was that there seem to have been a tough luck sort of attitude taken. So, Mr. Speaker, I wonder if the Minister could give an undertaking that

in regard to these sorts of matters there would be some sort of communiqué to the people involved which would be somewhat fair. To ask people to come five years later and be a part of a case again, especially with some of these people who are senior citizens, I think would be grossly unfair.

The Speaker: Honourable Minister for Human Resources.

Hon. Roy Bodden: Mr. Speaker, the Member is correct in highlighting that the system was not as ideal as it should have been. Permit me to say firstly, that is the reason why when the new Ministry assumed responsibilities for this, after initial assessments by the Permanent Secretary and other technical persons and me, we decided that we wanted an improvement in this system because there was a tremendous backlog of cases. There was dissatisfaction among all persons involved in the Tribunal process. Legal advice to which we had access, suggests that aggrieved parties can sue the Chairman of the Tribunals. However, that is a situation to which, as Minister, I would not subscribe and indeed I would discourage persons from doing that and I have never encouraged it for the simple reason that it is a precarious situation.

While it is true that anyone who serves on tribunals should be conscientious and should have pursued their duties assiduously, we also have to remember that these persons are volunteers. And the reason I would be reluctant to take that route is because we still have to depend on tribunals. Ultimately all of the cases will not be settled. We have chosen to go in a new direction now, which is arbitration, conciliation and mediation. There will be still one or two cases that will have to resort to that. That being the case, I think it would be most presumptuous and impolitic for the Ministry to take the position that these persons should be taken to court.

There are outstanding cases that I am aware of where the situation is far from satisfactory. I believe, that gradually we will get to the point where persons involved, whichever way the judgement goes will be convinced that what has transpired in the instance of retrial was fair, acceptable and legal.

I want to say in defence of the current Employment Relations Department, that to the best of my knowledge—and I am in close contact with the Department and I took a very hands on approach to these matters—no files have been lost, mishandled or displaced on the instance of staff at the Employment Relations Department. I think where problems occurred was that some cases were tried, went to the natural conclusion, but judgements were not recorded. That being the case it was difficult then for the Employment Relations Department to provide any convincing answers to the aggrieved parties.

Mr. Speaker, it is a tenuous situation but it is not an impossible situation and we are working as

best as we can to address the outstanding grievances, Sir.

The Speaker: The Second Elected Member from the district of Cayman Brac. I will allow one additional supplementary after this one.

Mr. Lyndon L. Martin: Thank you, Mr. Speaker. I do understand the Minister's position in not encouraging legal action against the chairman by the grieved parties. Could the Minister outline any actions that are currently underway to encourage the Chairmen of the Tribunal past, especially in cases dating back to 1997, as I heard from my colleague, the Second Elected Member for the district of West Bay? What actions are being done to passively or aggressively encourage these Chairmen to file judgements if they have not been done in order to facilitate the grieved parties' settlement in these matters?

The Speaker: The Honourable Minister responsible for Human Resources.

Hon. Roy Boddan: Thank you, Mr. Speaker. The Honourable Member will realise that we have no recourse other than to formally and informally request that the judgements be provided. As I understand it, there was no contract so this is purely voluntary. The whole thing was predicated upon the fact that the people who accepted these positions would be responsible. Of course, there were extenuating circumstances and even with the best of intentions all of the circumstances did not provide the conduciveness where ideally reports could have been written in a timely manner.

Mr. Speaker, I suppose, not to appear cavalier, but we have to learn from our experience in the proposed new Employment Relations legislation. I believe that we have taken the opportunity to formalise the arrangements and lay it out more clearly and spell out what are the obligations of the Chairman, so that this kind of problem can be eliminated in the future. Certainly, I see the point where some people may feel aggrieved and hurt and they may want to take the step but it would be difficult. In the case, certainly I myself, believe it would be impolitic to on the one hand bring a sledge hammer down on persons who volunteered and gave of their time in all good intentions. Again, I reiterate that it was unfortunate and regrettable that there were lack of conscientiousness on the part of some people in not producing the judgements, but I also recognise that there were extenuating circumstances and I am inclined to be lenient and generous in those cases.

The Speaker: The Second Elected Member from Cayman Brac.

Mr. Lyndon L. Martin: Thank you, Mr. Speaker. The highly publicised case almost two years ago involving

Beach Club, it is my understanding that it has not been dealt with yet by the Tribunal. Could the Minister give any details as to the whereabouts of that particular case and give an undertaking, if he does not have the information available, to provide it to this Honourable House?

Hon. Roy Boddan: Mr. Speaker, it would be both prejudicial and impolitic of me to comment on a situation which is still ongoing. My personal sentiments are not important and on this occasion I would not be so 'fool hardy' as to hazard them. I would only say to the Honourable Member that we are aware of the sensitivity of the situation and I am confident that it will be dealt with in an acceptable manner.

The Speaker: Madam Clerk, the next question please.

Question No. 78

(Deferred Standing Order 23(5))

The Speaker: The Elected Member for East End whose name the question stands in.

No. 78: Mr. V. Arden McLean: asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration, if Government is making any preparations to address changes in Laws that will be necessary to bring them in line with the proposed constitutional changes.

The Speaker: Leader of Government Business.

Hon. W. McKeeva Bush: Mr. Speaker, under Standing Order 23(5) we wish to defer this question until the Honourable Attorney General is in the Legislative Assembly.

The Speaker: The question is that in accordance with the provision of the Standing Order 23(5) question No. 78 be deferred until a later Sitting. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Question No. 78 deferred until the Honourable Second Official Member is in attendance.

Question No. 79

The Speaker: The Second Elected Member for the district of West Bay.

No. 79: Mr. Rolston M. Anglin: asked the Honourable Minister responsible for the Ministry of Community Services, Youth and Women's Affairs, how many people have been taken off the Poor Relief System over the past twelve months, broken down by month and stating the reason for each person being taken

off; how they were notified and what timeframe were they given to adjust their financial affairs.

The Speaker: The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Between October 2001 and September 2002, a total of 44 persons were taken off the poor relief system based on assessment of their circumstances. In October, 2001 - 3 terminations; November, 2001 - 5 terminations; January, 2002 - 17 terminations; March, 2002 - 5 terminations; April, 2002 - 3 terminations; May, 2002 - 3 terminations;

July, 2002 - 4 terminations; September, 2002 - 4 terminations. On the 1 and 15 November, 2002 there were no terminations.

Persons were terminated for the following reasons: -

1. Having savings ranging from \$4000 upwards prior to the change in the policy to allow a person to have savings up to \$8000.
2. Having savings in excess of \$8000 upwards after the change in policy.
3. Owning substantial property.
4. In addition to their own resources family members were assisting in meeting their other needs. In some circumstances individuals or their family members refuse to comply with assessment process the Department was operating under at the time.

Persons who terminated were notified in writing and the usual timeframe was one month.

The Speaker: The Second Elected Member from the district of West Bay.

Supplementaries

Mr. Rolston M. Anglin: Thank you, Mr. Speaker. I wonder if the Minister could say for those persons who were terminated and notified in writing, if the writing of the letter was delivered by registered mail

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, it was not delivered by registered mail.

The Speaker: The Second Elected Member from the district of West Bay.

Mr. Rolston M. Anglin: Mr. Speaker, I have had complaints from constituents who went to the bank or sent persons to the bank who could act on their behalf and the monies were not there. Those persons have indicated to me that they were given no notice. I wonder if the Minister could say how it is that we would be able to resolve this particular issue, given the fact that

the notice purported to be sent out was not sent by registered mail.

The Speaker: The Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, we are not aware in the Ministry that this is a large problem, but if it would expedite the matter and somehow assist us with getting the communication across to certain individuals then we would certainly be prepared to register the mail.

The Speaker: The Elected Member from the district of East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. Under the reasons for termination, the first one says, "Having savings ranging from \$4000 upwards prior to the change in policy to \$8000". I wonder if the Minister could tell us what has happened to those people who were terminated prior to the change and are now qualified under the new change.

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, those people would then be reassessed. I think some of them are being reassessed. Some of them have already been reassessed since that change took place in May.

The Speaker: The Elected Member from East End.

Mr. V. Arden McLean: Mr. Speaker, the Minister in his substantive answer said that in some instances individuals and or their families refuse to comply with the assessment process the Department was operating under at the time. Can the Minister tell us what the reassessment process is now?

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, I should have also said in the last supplementary answer that some persons have already been reinstated and were re-qualified as a result of the change in some of the criteria. With regards to the new supplementary question asked by the Member from East End, we no longer require the assessment of family members in the process of deciding on who gets poor relief. We are simply basing it upon the ability of the person who made the application for poor relief.

The Speaker: If there are no further supplementaries we will now move on to the next question.

Question No. 80*(Deferred-Standing Order 23(5))*

The Speaker: The Second Elected Member for the district of George Town.

No. 80: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce and reads as follows: What was the total cost to Government of the relocation of the Tourism Office from Miami to New York.

The Speaker: The Leader of Government Business.

Hon. W. McKeever Bush: Mr. Speaker, I am going to have to defer this question until Thursday or Friday morning as it is not yet ready. I move for the deferral under the relevant Standing Orders.

The Speaker: The question is that in accordance with the provisions of the Standing Order 23(5) question No. 80 be deferred until a later Sitting. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Question No. 80 deferred until the 4 or 5 December 2002.

Question No. 81*(Withdrawn)*

The Speaker: The Second Elected Member for George Town.

No. 81: Mr. Alden M. McLaughlin, Jr.: asked the Honourable Minister responsible for the Ministry of Community Services, Youth, Women's Affairs and Sports: As the contract between the Cayman Islands' Government and the American Marine Institute will expire at 31st October, 2002 and will not be renewed, please state what are the plans in relation to the continuation of the Cayman Islands Marine Institute and the young persons currently resident there.

Mr. Alden M. McLaughlin, Jr.: Mr. Speaker, I beg to withdraw this question as the Honourable Minister has pre-empted it by a statement made to this Honourable House earlier during this Meeting.

The Speaker: The question is that Question No. 81 be withdrawn. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Question No. 81 withdrawn.

The Speaker: The Elected Member for East End.

Question No. 82

No. 82: Mr. V. Arden McLean: asked the Honourable Minister responsible for the Ministry of Community Services, Youth, Women's Affairs and Sports to give a progress report on the implementation of the National Youth Policy.

The Speaker: The Honourable Minister for Youth.

Dr. the Hon. Frank S. McField: Mr. Speaker, the full implementation of the policy calls for a number of mechanisms to be put in place; the Cayman Islands youth assembly, a national youth commission and inter-ministerial and inter-departmental committee on youth, a youth department, a youth assembly, youth development centres, and a youth passport. To date the following has been achieved: -

1. In 2000 the subject of youth was added to the Sports office to make it a Department of Youth and Sports. In 2001 the Department employed a Deputy Director of Youth and Sports and a youth services coordinator. In 2002 the Department employed seven part time youth development workers. They are assigned to the various districts as follows: -

- 1 for North Side
- 2 for Bodden Town
- 2 for George Town
- 1 for West Bay
- 1 for Cayman Brac

At present there are five vacant youth development officers to be appointed.

2. Youth Development Centres: The National Youth Policy calls for the young people to have easy access to existing facilities and for such facilities to be established in those communities that currently do not have them. As Members of this Honourable House are aware, there are many government and private buildings, which are under-utilised in each district. The Ministry and the Department of Youth and Sports are in the process of getting permission to use these buildings for the youth development officers and community development officers. In keeping with the policy the Government has assisted with the establishment of the following youth centres: -

The Scranton Centre located at the old Racket Club site, which is operated by the National Drug Council and Youth Place in West Bay operated by Youth for Christ.

Additionally, we have also restructured the youth residential facilities, which were funded through the Department of Social Services. The first of these centres; Hope Centre, was recently opened by the Government and will be operated as a community project, which will cater to truants and young people after school hours. The Ministry and the Department is now

in a process of establishing another youth centre in Central George Town.

3. The National Youth Commission has been established.

The primary responsibility of the Commission is to monitor the implementation of the National Youth Policy and to advocate for youth issues to be addressed in all relevant policies. Office accommodation will be secured for the Commission and staff recruited, following which, the Commission will conduct research and prepare its first report to the Ministry detailing the implementation process of the policy.

4. Inter-ministerial or Inter-departmental Committee on Youth.

There was an inter-departmental committee on youth employment piloted this summer of 2002 where 61 young people were placed in jobs for the summer period. The Committee consisted of the Department of Youth and Sports, Employment Services Centre and John Gray High school. The Ministry is seeking to establish the Inter-ministerial Committee on youth and has already had good cooperation from the Ministry of Education and the Royal Cayman Islands Police Force with the restructuring of the residential juvenile facilities, funded by the Department of Social Services.

5. The Frame for the functioning of the youth assembly and the youth passport is complete. The Ministry is now reviewing these mechanisms.

6. Goals of the National Youth Policy.

The National Youth Commission has established four committees under which all of the goals have been signed. These Committees are Youth Social Welfare, Human Resource Development, Youth Services, and the Committee of Inquiry.

The Speaker: Elected Member for the district of East End.

Supplementaries

Mr. V. Arden McLean: Thank you, Mr. Speaker. The Minister, in his substantive answer, under (2), said that the Ministry and the Department of Youth and Sports are in the process of getting permission to use these buildings, which were referred to earlier as being under utilised within each district. I agree with him wholeheartedly on how the buildings are underutilised, such as the civic centres. I always thought the civic centres were for the community. In 2001 I got permission from the Government for the community development officer to use the Civic Centre in East End for these types of events. I am wondering why it is not utilised. I know recently they had the elderly of the three districts get together there but I do not see a lot of activity with the youth being carried on in the civic centre, even though access has been granted at any time that it not being used.

The Speaker: The Honourable Minister for Youth.

Dr. the Hon. Frank S. McField: Mr. Speaker, we basically agreed that we would like to see civic centres and other government buildings being utilised as possible venues for youth activities and senior citizens activities. Obviously it is a process of us getting a policy from Executive Council on this and we have been a little delayed in getting that done, simply because we have been tied up in so many other things, but it something that we should be able to bring to Council early next year.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker and I thank the Minister for that but my specific question was East End because access has now been given to it. However, nevertheless, as long as the policy comes out I guess we will see some activity.

Mr. Speaker, in that same area, under (2), the Minister also said that the Scranton Centre is located at the old Racket Club site, which is operated by the NDC (National Drug Council) and Youth Place in West Bay. Specifically, for the one at the old Racket Club site, I wonder if the Minister can tell us what is going to happen when Government moves ahead to build their two buildings, which is right down the road, I suspect, within short order.

The Speaker: The Minister responsible for Youth.

Dr. the Hon. Frank S. McField: Mr. Speaker, when the Government begins its pre-construction preparations, I would assume that the project will have to move out of there. The point also is that we are trying to cover that base by the establishment of the Arthur Martin Creative Empowerment Centre, which will be a centre that will be able to provide wholesome activities for young people which is in the Scranton area. There are other parts of the programme that has been operated there by the National Drug Council that we have not yet been able to find facilities for. However, we also suspect that some of the organisations that have been involved in this project will also be looking for replacement accommodations as well, and we look forward to see them be as staunch as possible in being able to come up with some accommodation.

The Speaker: The Lady Member from the district of North Side.

Ms. Edna M. Moyle: Thank you, Mr. Speaker. I wonder if the Honourable Minister would say who the youth development worker in the district of North Side is, and when was this person appointed.

The Speaker: The Honourable Minister for Community Services.

Dr. the Hon. Frank S. McField: Mr. Speaker, the person is Natina Ebanks who was appointed on 6 June this year.

The Speaker: Lady Member from the district of North Side continuing.

Ms. Edna M. Moyle: Mr. Speaker, would the Honourable say when the National Youth Commission was set up and why a report has not been forthcoming to the Ministry as yet?

The Speaker: The Minister for Youth.

Dr. the Hon. Frank S. McField: Mr. Speaker, the National Youth Commission was set up in November of last year and . . .

(pause)

Dr. the Hon. Frank S. McField: Mr. Speaker, it was appointed before the Lady Member left the position in the Ministry. I think that is what she wants me to say. We have had many reports from the Chairman, which have really been in the form of verbal reports and discussions with regards to where we are going and how we would like to see the National Youth Commission function.

The Speaker: If there are no further Supplementaries we will now move on.

STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF THE GOVERNMENT

The Speaker: I have been given notice of a statement by the Honourable Leader of Government Business.

EU's Draft Taxation on Savings Income Directive and other International Initiatives

Hon. W. McKeeva Bush: Thank you very much Mr. Speaker.

On Thursday, 28 November, I called a joint meeting of the Private Sector Consultation Council and the National Advisory Council to discuss three matters:

1. Developments in the OECD process
2. Media Reports regarding a tax information exchange agreement with Ireland.
3. The European Union's draft savings directive.

In providing a report of that meeting and the matters discussed therein the Government has generally good news. In the Organisation for Economic Co-operation and Development (OECD) process, as all Honourable Members are aware, the Cayman Islands have been involved for more than two years in the process of

shaping new standards for international cooperation on taxation matters.

Mr. Speaker, you will be aware that at the outset of the OECD process there was a very uneven playing field with the OECD countries trying to impose burdens on us that they would not bear themselves. I am pleased to report that as of the most recent meeting held here in the Cayman Islands, the OECD has acknowledged the need for a level playing field, and has put on their website the fact that the standards, which we are in the process of designing, will apply to OECD member states, as well as ourselves. This is a very important break through for all of us.

Also of considerable importance for the Cayman Islands, coming out of the meeting with the OECD held a few weeks ago, was substantial progress in regards

to the compliance burdens initially proposed for our financial services providers, in regards to companies and trusts. You will be aware that initially the OECD proposed that all companies and trusts would be required to have filed or audited accounts. This was one of the most onerous requirements of the OECD commitment and it is one which the Cayman Islands has worked very hard to have modified.

I am pleased to report that as a result of lengthy dialogue with other affected jurisdictions and with OECD member states, the filing and audited requirements initially proposed have been discarded. This will significantly reduce the potential compliance burden for both Cayman Islands financial services providers and for the Government, as well.

On the second subject there have been media reports that the Cayman Islands is about to conclude a Tax Information Exchange Agreement with Ireland. Mr. Speaker, this is not accurate. What is true is that last week we received a request from Ireland to commence discussions pursuant to the May 2000 OECD commitment. This request will be reviewed and handled using the established process and a reply will be provided in due course.

The third subject area is more complex but there is positive news on that front as well. It will be recalled that the savings directive, in addition to calling on the Cayman Islands and the other Caribbean Overseas Territories to adopt the same measures, also called on six independent countries including the United States and Switzerland to agree, prior to the end of December 2002 that they would adopt equivalent measures. On the 27 November a preliminary report was published by the European Commission indicating that none of the six independent countries specified in the Feira Accord have agreed to the automatic exchange of information. That does not mean that European finance ministers who will be meeting in less than 24 hours—well, they should have met by now—will scrap the savings directive or even modify it, but it does show that many other countries in addition to the Caribbean overseas territories have reservations regarding the savings directive. This is posi-

tive news at a time when we are under pressure to comply with its provisions.

I would also like to say that in discussions with the Private Sector representatives last week Thursday, there was unanimous support for the position which Government has taken in regards to the savings directive. We would like to thank the Private Sector for their on going support and to once again say that we the Government will continue to work with the Private Sector in meeting these challenges.

Mr. Speaker, I have a further statement on the Constitutional Modernisation Process.

The country will know that the United Democratic Party asked the People's Progressive Movement for a meeting to seek consensus on the Constitutional Modernisation process before we went to London. The United Democratic Party announces that it has reached consensus with the People's Progressive Movement on all issues relating to the modernised Constitution for the Cayman Islands. This position was reached at the meeting held on Friday, 29 November at the Hyatt Hotel between Members of the UDP and the five elected Members of the PPM. We arranged the meeting in order to seek consensus on the outstanding issues prior to the Constitution review meeting in London from the 9th to the 11th December.

In a letter to the interim Leader of the Opposition, the First Elected Member from George Town, I reiterated the Party's Agreement and further invited the Opposition to accept the implementation timetable as detailed in his letter for the Modernised Constitution, in the best interest of the Cayman Islands.

Mr. Speaker, that letter states:

"2 December 2002

**Mr. Kurt Tibbetts, MLA
Leader of the Opposition
People's Progressive Movement
P.O. Box 10526 APO
Grand Cayman**

Dear Mr. Tibbetts,

Re: Constitutional Modernisation

"On behalf of the United Democratic Party, I write to express our appreciation for your attendance and participation and that of the other Members of the People's Progressive Movement, at the meeting held on Friday, 29 November at the Hyatt Regency Hotel.

"Our intention in arranging this meeting was to forge consensus on our differences prior to attending the meeting in London on the 9th to the 11th December, which the Foreign and Commonwealth Office has arranged and invited the United Democratic Party to bring five delegates and an equal number from the People's Progressive Movement to attend.

"The United Democratic Party is pleased of the very productive outcome of last Friday's meeting and at the progress that we have made in addressing those issues over which the public has expressed concern.

"We now confirm the issues we discussed and agreements reached at Friday's meeting.

1. Full ministerial form of government. In keeping with the Constitutional Commissioners' recommendation for a full ministerial form of Government with a Chief Minister and six other Ministers, leaving aside the Attorney General, the meeting endorsed this recommendation. It was further agreed that the nomenclature of Executive Council would be changed to Cabinet. The following provisions for the office of Attorney General were also discussed and agreed:

- **There shall be an attorney general who shall be the principal legal advisor to government.**
- **The Attorney General shall be a person entitled to practice as an attorney-at-law in the Cayman Islands.**
- **The Attorney General shall be appointed by His Excellency the Governor in accordance with the advice with the Chief Minister.**
- **The Attorney General shall not be either an elected member of the Legislative Assembly or a public officer.**
- **Provision shall be made for a temporary appointment of an attorney general . . ." That is, to act in his absence . . . "and prosecutorial functions should cease and should be vested in the office of the Solicitor General.**

2. Terms limits. It was agreed to place a limit of two consecutive terms on the post of Chief Minister with a minimum break of one full term of office.

3. Vote of no confidence. A vote of no confidence can only be brought against the entire government and shall require eleven votes under the proposed membership of seventeen elected members.

4. Office of the speaker of the House. It was agreed that the Speaker of the House would be a non-elected Member and the Deputy would be an elected Member.

5. Definition of Caymanian. There was general agreement on the definition of Caymanian." That is, Mr. Speaker, I should say that even though our wording was a little bit different from theirs, more or less we were on all fours with that proposal.

6. Single Member Constituencies. Agreement was reached for the introduction of seventeen single member constituencies with the six electoral districts for the 2004 elections, which conforms to the universal concept of one man, one vote.

"Having reached consensus on all the above issues which represented our few differences in the Constitutional Commissioners' Report we are well on our way to full consensus on a modern-

ised Constitution, prior to the meeting that the FCO has arranged in London. We believe we have addressed and agreed on Her Majesty's Government's perspectives which are:

1. HMG's overall responsibility for the good governance of the territory.
2. The impartiality of the public service.
3. The independence of the judiciary.

"In discussions with HMG over the arranging of the upcoming meeting, it has been clear that HMG would like us to narrow our differences prior to the meeting and that they are keen to have a modernised Cayman Islands Constitution without delay. Having eliminated our differences we now invite you and your group to accept the only remaining issue, the implementation schedule with the hope of reaching agreement on this issue prior to the meeting in London.

"The United Democratic Party believes there are good reasons to support Her Majesty's Government desire for early implementation of some sections of the modernised constitution. Some of these reasons are:

1. To ensure that political constitutional modernisation keeps pace with the several administrative reforms already in place within the civil service;
2. to have a modern political framework to effectively address all external initiatives that will have a negative impact on our economy;
3. the need for a constitutionally authorised political leader, chief minister, to deal with the various external initiatives facing the Cayman Islands;
4. everyone recognises and agrees that the Cayman Islands need a modernised Constitution, and since we agree that a full ministerial form of government is essential for good governance, we must have an accountable, recognised political leader who is accountable to his or her party, Legislative Assembly and to the people of these Islands;
5. to allow the Boundaries Commission to prepare for the seventeen single member constituencies for the 2004 elections; and
6. the urgent need for a Bill of Rights for the Cayman Islands people, which will require changes to existing legislation. Such changes are to be completed by 2005".

Mr. Speaker, all of us felt that London having taken some three years to implement their Bill of Rights, there are laws that would impact here on the Bill of Rights and the Bill of Rights would impact on those laws, and we need to have time that these laws can be formulated for the changes. So, that particular Bill of Rights would not come into force until 2005, given certain changes within it.

I will continue with the letter: "In order to reach consensus on this remaining issue we propose a phase implementation of the modernised constitution as follows:

"By the 31 March 2003, full ministerial system of Government with the Chief Minister; one additional Minister in Executive Council; commence amending legislation for the Bill of Rights to come into effect by 2005 and the Boundaries Commission.

Mr. Speaker, we did feel with the Boundaries Commission that the Constitution needs to come into play so that we can start providing for the 2004 elections where the Boundaries Commission is most important, in that, the Boundaries Commission would have to bring to bear in force the new seventeen constituencies. So, it would have to be enforced and we would have to start next year; and it seems that is what everyone wants.

"For 2004 elections—the single member constituencies: After the 2004 elections, second additional minister to cabinet, the Speaker to be non-elected member. To complete the process I will give you the assurance that the Modernised Constitution will be the subject of a special meeting of the Legislative Assembly to allow full debate by all elected representatives.

"Once again, we thank you and the People's Progressive Movement for attending last Friday's meeting and accepting the Foreign and Commonwealth's Office (FCO) invitation to participate in the upcoming meeting in London. The United Democratic Party has asked me to extend to you and your Members our admiration for your commitment to this modernisation process. We trust that in continuing to work together we can achieve the best results for the people we represent.

"Please note we agreed on the position that referenda be included in the Modernised Constitution."

I can say to this Honourable House, Mr. Speaker, that I believe that we will have a Bill to authorise referendums next year. That is one on the Government's agenda now.

**"Yours in service,
The Honourable W. McKeever Bush, OBE, JP
Party Leader."**

Mr. Speaker, the Opposition had this letter as of this morning. I am pleased also to say that I had meetings this morning with the Chamber of Commerce, the Ministers' Association, the People for Referendum, the Caymanian Bar Association and the Concerned Citizens group. I have informed them of the meeting on Friday and our position, and those who agreed and did not agree. I can say that that meeting was well received and I now await to see what the responses are, although the President of the Chamber of Commerce, Mr. Connor O'Dea said that

he was satisfied that we came to these agreements to reach this consensus before going to London.

I thank you very much, Mr. Speaker.

The Speaker: Thank you. I will now call on the Minister for Community Services. I have been given notice of a statement from him as well.

Her Majesty's Prisons – Northward and Fairbanks

Dr. the Hon. Frank S. McField: Mr. Speaker, I was given constitutional responsibility for HMP Northward in November 2001, becoming the first Elected Member of Executive Council to be given such a responsibility. Many of my friends and supporters who were aware of the many difficulties and challenges in the Prison Services warn that I had only been given this responsibility so that I would fail and my failure highlighted. The greatest challenge had, of course, been the result of the chronic lack of funds for this very important institution over the years. The lack of adequate funding for the Prison Service had prevented the construction of facilities, which would have allowed the proper employment, and control of inmates.

It was overcrowding that was blamed for the riots in 1999, but it was a chronic lack of funds that was seen as the cause of the lack of space. Therefore, Mr. Speaker, we can see why some would have thought I was being set up to fail, especially when we note the economic circumstances of our economy at the time and the fact the Prison Services Budget was cut by 4 percent while the prison population was increasing by 4.5 percent per year. The average population in 2000 had been a 196 at Northward and 23 at Fairbanks, a total of 219. However, the average population in 2002 is 216 at Northward and 26 at Fairbanks, a total of 242.

Mr. Speaker, responsibility for the Prison Services has been a challenge with difficulties, however, I must confess that I have never walked away from but have always defended my visions. I say this not just to remind myself of where I have been but to remind some of where I am going. My vision for the Prison Services has been in the making for many years and I am happy for this great and challenging opportunity to extend the benefits of social development to those alienated and punished by society. The Prison Service has finally been accepted as a vital part of our community services, thus personal and social development in the prisons are now aspects of the wider human development strategies we are following in the wider society.

Mr. Speaker, I am pleased to report that the achievements in the last 12 months were possible in spite of the Budget cuts. In fact, the cuts to the prisons' Budget were possible because of the innovative management of the Director who thought to employ 14 operational support assistant grades that replaced officers in appropriate posts, and by utilising the Principal Officers as Shift Commanders. The appointment

of an experienced Administration and Finance Manager, who has considerable training and expertise, has made a significant contribution in this area.

The major achievements are best summed up in the comments of Mr. Gibbard, the Caribbean Prison Reform Coordinator or the United Kingdom Foreign Office who has been inspecting Cayman prisons for over 12 years. In his October 2002 Report, he felt that: **“Northward has become a much safer place to be and he found the staff to be much more confident and relaxed than I have ever seen them before.”** He also commented very positively on the development of HMP Fairbanks as a very positive visit.

The kitchen and its staff have performed very outstandingly coping with inadequate facilities. It has not increased in size since the 1980s and delivering what Mr. Gibbard referred to: **“as first class food, the best of any prison I have visited.”** The kitchen at Fairbanks has also produced food for Prison Services prisoners held in Central Police Station (CPS).

Many inter-linking factors have influenced this improved situation: Increased regime places have kept the prison population occupied. Up to 79 percent of the population are employed on a variety of activities; (this figure was 31 percent in 2000). The development of the internal market garden area and the external farm, have been major factors in this process. With the support of the Ministry, sport coaches have introduced basketball training for the juveniles; a football referee's course for some longer term prisoners and a fitness programme down at Fairbanks. The outworker scheme has developed and 9 prisoners currently hold jobs in the community. The scheme was started early in 2001 with 2 prisoners on the scheme. The prison still gives assistance to community projects. There is still a major shortage of workshops—these were inadequate in 1999 and most were not replaced after the riot.

The introduction of improved operational systems in the prison: The gradual establishment of proper control and improved staff confidence have enabled dress and behavioural codes to be implemented together with a more effective prisoner movement system. The prison is a tidier and quieter place, a state of affairs commented on by the visitors. This has led to a marked reduction in vandalism. Another key factor in the positive atmosphere has been the development of the privileged system, which includes a basic regime for those who displays aggression or abuse to staff.

The success of the self-help building programme: The new prison's reception has opened in the former burnt out automotive body shop. The two-storey visit blocks with a security camera system and metal detector has been completed. This building includes the canteen facilities, legal visit and board room that will double as a remand magistrates court and training facility. In consequence the Parole Board is now able to meet in the prison. The opening of this block saw the end of the first phase of the medium

term strategic plan with the clearance of gate lodge. Extra accommodation spaces have been brought on line through the refurbishment of cells; the adoption of former medical rooms damaged in the riot and the creation of a hostel for long-term minimum-security prisoners outside the perimeter.

The movement of the maintenance facility around to the store building completed the clearance of the front of the prison, which is now being landscaped. Other completed projects include the provisions of a secure exercise yard for the basic wing; the refurbishment of the High Risk Unit with concrete beds and screens; the provision of a staff dining room; a shift commander's officer; a secure tool store and emergency store. The former chicken farm has been converted into a wood work shop and the former rabbit farm into kennels for the dog training course. Both prisons have been painted throughout.

Current projects underway include the construction of a central laundry, a project which has been plagued with equipment, voltage and water pressure problems, but which should be opened before the end of the year. Included also, is a dining association extension to the B-wing and a waiting room for prison visitors. The key project is the building of a 40-bed minimum security unit in the prison for which the foundations are just being laid. This will give some relief to the rising numbers and will allow the conversion of the C-wing into a much needed specialist young offenders juvenile unit.

Considerable development work at Fairbanks is also taking place where a classroom, sewing room, offices and external grow box area have been constructed. Drainage improvements are underway and a new sewage tank is being installed, which will enable toilets to be fitted into the dormitories.

A major site survey of Northward Prison has been undertaken and a 2000/2001 Strategic Development Plans have been updated in detail.

Security improvements include the provisions of two drugs sniffer dogs in 2002, which has assisted in the fight against illegal drugs at Northward. The number of prisoners tested for drugs has doubled from 276 (11 percent of the population) to 288, in the first six months of 2002, (22 percent of the population). Positive results are 14 percent, (a 1 percent reduction on 2001). The installation of a new and much needed perimeter security lighting system will be completed by December. Regular surprise searches have been carried out with considerable success and without adverse prisoner reaction.

The Caribbean Prison Training Centre, which opened in May 2001, continues to be a success. Apart from its use for OSA training and as a venue for the 12-week dog handlers' course, six other training courses and two conferences have been run. In the last 12 months 8 Caribbean countries have sent a total of 65 staff on the courses. In addition the introduction of a Thursday lunch time training session together with the attendance of staff on personnel, security ad-

visors, search coordinators and computer courses, have improved the training figures for local officers from an average of 1.9 days per member of staff per year in 2000 to a projected 5.25 day average this year.

The United Kingdom (UK) Chief Inspector of Prisons has agreed to the attachment to the inspectorate of selected local senior managers who have been identified as having potential. The first of these attachments has just taken place.

The Cayman Prison Service has been asked to provide control and restraint training for other Caribbean Overseas Territories Dependents (OTD's). Assistance has already been given to the Jamaican Prison Service; this has benefited local instructors by widening their experience. A bid is being prepared for UK funds to assist with this project, which will be a major development for the Training Centre.

Mr. Speaker and Members of the Legislative Assembly, I would like to say that the above was only possible through the regular weekly meetings between the Ministry and the Director of Prison. Therefore, I would like to publicly thank the Permanent Secretary and staff of my Ministry, the Director Prison and his Deputy for their assistance and cooperation with this very challenging subject. I would also like to emphasise my gratitude and that of the Director of Prisons for the tremendous support given by staff and prisoners during the past year.

The Speaker: Thank you. Since it has now reached the luncheon hour we will now take the luncheon break and we will resume at 2.15 pm.

Proceedings suspended at 1.00 pm

Proceedings resumed at 3.10 pm

The Speaker: Please be seated. Proceedings are resumed.

GOVERNMENT BUSINESS

BILLS

REPORT ON BILL

The Appropriation (January to June 2003) Bill 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I have to report that the Standing Finance Committee met on Thursday 14 November 2002, Friday 15 November 2002, Monday 18 November 2002, Wednesday 20 November 2002, Thursday 21 November 2002, Friday 22 November 2002, Monday 25 November 2002, and Wednesday 27 November 2002, to consider the Appropriation (January to June 2003) Bill 2002 together

with the Annual Plan and Estimates for the Government of the Cayman Islands for the Six Months Financial Year ending 30 June 2003 and The Annual Budget Statements for the Ministries and Portfolios for the Six Month Financial Year ending 30 June 2003.

Composition of the Committee

The Standing Finance Committee consists of all Honourable Members, Elected Members of the Legislative Assembly with the Financial Secretary as Chairman, as set out in accordance with the provisions of Standing Orders 75(2).

Chief Officers, witnesses and persons in attendance

Controlling officers attended meetings to provide information to the Committee. Other government officers were in attendance to provide information and/or to assist the Committee and Controlling officers. Their names are set out in the minutes of the proceedings.

Consideration of the Appropriation (January to June 2003) Bill 2002

Consideration of The Appropriation (January to June 2003) Bill 2002, together with the Annual Plan and Estimates for the Government of the Cayman Islands for the six months financial year ending 30 June 2002, and the Annual Budget Statements for Ministries and Portfolios for the Six Month Financial Year ending 30 June 2003.

Clauses 1 and 2

In accordance with the provisions of Standing Order 64 (1), clauses 1 and 2 of the Appropriation (January to June 2003) Bill 2002 stood postponed until after the consideration of the schedule of the Bill.

Consideration of the Schedule of the Bill under Standing Orders 64 (3)—The Committee considered the schedule of the Bill and agreed the following:

- **Portfolio of Internal and External Affairs – Output Group IEA - Numbers 1 through 23.** The Committee considered the output group numbers 1 through 23 for the Portfolio of Internal and External Affairs as set out in the Schedule to the Bill.

- **Portfolio of Legal Affairs – Output Group LGA – Numbers 1 through 4.** The Committee agreed the output group numbers 1 through 4 for the Portfolio of Legal Affairs as set out in the Schedule of the Bill.

- **Portfolio of Finance and Economics – Output Group FAE – Numbers 1 through 18.** The Committee agreed to the output group numbers 1 through 18 for the Portfolio of Finance and Economics as set out in the Schedule of the Bill.

- **Ministry of Tourism, Environment, Development and Commerce - Output Group TED –**

Numbers 1 through 17. The Committee agreed by majority to output group numbers 1 through 17 for the Ministry of Tourism, Environment, Development and Commerce as set out in the Schedule of the Bill.

- **Ministry of Planning, Communications, Works and Information Technology – Output Group PCW – Numbers 1 through 23.** The Committee agreed to output group numbers 1 through 23 for the Ministry of Planning, Communications, Works and Information Technology as set out in the Schedule to the Bill.

- **Ministry of Education, Human Resources and Culture – Output Group EHC – Numbers 1 through 15.** The Committee agreed to output group numbers 1 through 15 for the Ministry of Education, Human Resources and Culture as set out in the Schedule to the Bill.

- **Ministry of Health Services, District Administration and Agriculture Output Group HAD – Numbers 1 through 13.** The Committee agreed to Output Group numbers 1 through 13 for the Ministry of Health Services, District Administration and Agriculture as set out in the Schedule to the Bill.

- **Ministry of Community Services, Women's Affairs, Youth and Sports – Output Group CWY – Numbers 1 through 12.** The Committee agreed to output group numbers 1 through 12 for the Ministry of Community Services, Women's Affairs, Youth and Sports as set out in the Schedule to the Bill.

- **Judicial Administration – Output Group JAD - Numbers 1 through 3.** The Committee agreed to numbers 1 through 3 for the Judicial Administration as set out in the Schedule to the Bill.

- **Cayman Islands Audit Office – Output Group ADO – Numbers 1 and 2.** The Committee agreed to output group numbers 1 and 2 for the Cayman Islands' Audit Office as set out in the Schedule to the Bill.

- **Statutory Authorities and Government Companies. Output Groups DVB, MOA, CSX, CAA, CCO, HEA, DRC, NAG, MUS, PEB, TAB -** The Committee agreed to the output groups for Statutory Authorities and Government Companies as set out in the Schedule of the Bill with the exception of DVB output group 1 through 3, which were agreed by majority.

- **Non-Governmental Output Suppliers - Output Group NGS - Numbers 1 through 44.** The Committee agreed to output group numbers 1 through 44 for Non-Governmental Output Suppliers as set out in the Schedule of the Bill.

- **Transfer Payment – Category Numbers TP 1 through 14.** The Committee agreed to Transfer Payments Category numbers TP 1 through 14 for Transfer Payments as set out in the Schedule of the Bill.

- **Financing Expense – Category Numbers PE 1 through 3.** The Committee agreed to Financing Expense Category numbers FE 1 through 3 for Fi-

nancing Expenses as set out in the Schedule of the Bill.

- **Other Executive Expenses – Category Numbers OE1 through 24.** The Committee agreed to Other Executive Expenses Category numbers OE 1 through 24 for Other Executive Expenses as set out in the Schedule to the Bill.

- **Equity Investments – Category Numbers EI 1 through 7.** The Committee agreed to Equity Investments expense category numbers EI 1 through 7 for Equity Investments as set out in the Schedule of the Bill.

- **Capital Acquisitions – Category Numbers CA 1 through 10.** The Committee agreed to Capital Acquisitions Category numbers CA 1 through 10 for Capital Investments as set out in the Schedule of the Bill.

- **Capital Development – Category Numbers CD 1 through 67.** The Committee agreed to capital development category numbers CD 1 through 67 for Capital Development as set out in the Schedule of the Bill.

- **Loans – Category Numbers LM 1 and 2.** The Committee agreed to Loan Category numbers LM 1 and 2 for loans as set out in the Schedule of the Bill.

- **Total Appropriation Approved –** One hundred and forty-six million, sixty thousand and ninety-seven Cayman Islands' dollars (\$146,600,097).

- **Standing Order 64(4).** In accordance with the provisions of Standing Order 64(4) the Committee agreed that the Schedule stand part of the Bill.

- **Consideration of the Clauses of the Bill.** The Committee agreed that clauses 1 and 2 of the Appropriation (January to June 2003) Bill 2002 stand part of the Bill.

- **Resolutions.** At the Committee's second meeting held Friday 15 November, the following resolutions were passed:

Resolution No. 1 – That the Chairman of the Standing Finance Committee provide the Committee with the chronological sequence of events leading up to the termination of the contract of the Public Relations Company in the United Kingdom, called "Profile".

Resolution No. 2 – That the Government considers, as soon as possible, engaging the services of appropriate promotional or marketing services within Europe; in particular the United Kingdom.

In accordance with the provisions of Standing Order 74(7) the Committee agreed that I report the Appropriation (January to June 2003) Bill 2002 to this Honourable Legislative Assembly.

Mr. Speaker, if you would permit, I would like to comment briefly on Resolution 1. I have tried to get in touch with the person whom we used to deal with within the "Profile Organisation" by the name of Susan Eastdo. I have put through between two to three calls to the new firm that she is presently with, but it seems

as if she is ill and was out of office so I am waiting on her to return a call at my office. As soon as I have received a call from her I will then put together the information that was promised to be provided to the Committee and this will be tabled in this Honourable House.

The Speaker: Thank you. The Bill has been duly reported and is set down for the Third Reading.

THIRD READING

The Appropriation (January to June 2003) Bill 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that a Bill entitled, The Appropriation (January to June 2003) Bill 2002 be given a third reading and passed.

The Speaker: The question is that a Bill entitled, The Appropriation (January to June 2003) Bill 2002 be given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: The Appropriation (January to June 2003) Bill 2002 has been read a third time and is passed.

FIRST READINGS

The Marine Conservation (Amendment) Bill 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for the Second Reading.

Suspension of Standing Orders 45 and 46 (1) and (2) to enable the following Bills to be read a first time

The Speaker: The question is that Standing Order 45 and 46 (1) and (2) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Standing Orders 45 and 46(1) and (2) suspended to enable the following Bills to be read a first time.

The Development and Planning (Amendment) (No. 3) Bill 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for Second Reading.

The Electricity (Amendment) Bill 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for Second Reading.

The Stamp Duty (Amendment) Bill 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for Second Reading.

The Companies (Amendment) Bill, 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for Second Reading.

The Exempted Limited Partnership (Amendment) Bill, 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for Second Reading.

The Immigration (Amendment and Validation) Bill, 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for Second Reading.

The Health Practice Bill, 2002

The Speaker: The Bill has been deemed to have been read a first time and set down for Second Reading.

SECOND READINGS

The Marine Conservation (Amendment) Bill 2002

The Speaker: The Leader of Government Business.

Hon. W. McKeever Bush: Mr. Speaker, The Marine Conservation (Amendment) Bill 2002 has been brought to this Honourable House in order to achieve two things. Firstly, to implement the Resolution embodied in Private Members' Motion No.1 of 2002. Secondly, the Bill seeks to redress certain minor omissions in the current Law. Private Members Motion No. 1 of 2002 resolve that The Marine Conservation Law be amended so as to exclude from the definition of spear gun, a traditional implement known as a striker or spike. The new definition of spear gun contained in this Amendment Bill achieves this. In addition, the Amendment Bill defines striker to ensure that it is the traditional use of the striker that is being allowed to continue and not the wanton destruction of thousands of fish.

Mr. Speaker, a look at the record of the debate on Private Members' Motion No. 1 of 2002, as contained in the *Hansard*, Friday 1 March 2002, will show that in accepting the Motion on behalf of Government, I noted that in addition to contracting the definition of spear gun, Government would be recommending the insertion of a new section in the Law; this provides for a catch and possession limit for fish, which have been taken with the aid of a spear gun. Section 5 of the Amendment Bill does just that.

The *Hansard* also shows that I said other amendments would be brought to address concerns of the Department of Environment and the public over the increase take of species such as Sea Urchins and Sea Cucumbers by other nationalities living among us. Mr. Speaker, in his response the Mover of the Motion, the Elected Member from East End, agreed that action needed to be taken in this regard and pledged the support of the Opposition for this amendment when it was brought. Section 6 of the Bill before the House restricts the taking of all echinoderms, which includes star fish, sea urchins, sea cucumbers or sea dumplings and so on.

The only other sections in the Bill dealing with the inclusion of provisions that were inadvertently omitted during the last amendment stage are the close season for whelks, which is proposed to run during the months of May to October inclusive, and the size limit for lobster, which will be set at a six inch tail length. Mr. Speaker, the lobster size limit has been in the Law since it was originally passed in 1978 but it was mistakenly deleted during the last amendment stage earlier this year.

There is nothing uncontroversial contained in this Amendment Bill and I commend it to this Honourable House. Also, I do not know if this is the place, but perhaps in the new Environment legislation that will come in February, some fees on the attraction known as the Sand Bar for people using it for commercial purposes, will have to be put on. I believe that is something I must do and intend to do. If not in this Bill, certainly in the Environment legislation that is coming before us next year, God's willing. Another issue to be looked into is certain areas of the North Sound Reef and other reefs; depending on the size or the amount of people that could be around the reefs at any given time. I will look at this before the committee stage. However, as I said, it could very well be in the legislation that will come before us in February next year.

The Speaker: The Bill has been duly moved and the Member has spoken to it. Does any Member wish to speak?

The Elected Member for the district of East End.

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

I rise to speak on the amendment of the Marine Conservation Law (2002 Revision) currently before this Honourable House. Like the Mover said, the Honourable Leader of Government Business, I gave a

commitment to my support for a number of things that this amendment brings to this Honourable House. In particular, I would like to thank the Government for bringing the amendment to the Bill to exclude striker or spike as it is commonly known, from the definition of spear gun. I also would like to congratulate the Government on the amendment which prohibits the taking of star fish and sea urchins and so on. I also called for that during my debate on the amendment in November or December 2001.

Mr. Speaker, I think I have been in and around the waters of this country as much as any other Member of this Honourable House. I can recall as a young person growing up in East End, the abundance of marine creatures. At that time not many of us recognised the value they would be to this country in years to come, which is now upon us. For instance, I witnessed the abundance of sea urchins along the reefs and shores of East End, in particular. I believe in the early 80s or mid 70s they disappeared. Many of us said it was because of the 'red tide' condition. In recent times, as recent as two months ago, I was pleasantly surprised to see those sea urchins, particularly, the black ones on the rebound. Many are on the reefs within the district of East End. So, I support the amendment to prevent the taking of these and the sea cucumber. The starfish and the white sea-egg are on the increase also.

I think in my last contribution to the previous amendment I spoke of a resident of East End who called me after finding a few foreign nationals with two 5-gallon buckets of the white sea-egg (urchins). At that time I was extremely concerned about it, hence my reason for bringing it to the Government's attention to get this completed as quickly as possible and prevent the taking. I also see the sea cucumber is on the increase and there are rumours that the foreign nationals are taking them. Mr. Speaker, we know, as Caymanians, we do not take them, and while we invite foreign nationals here, I think it is quite unfortunate but it is necessary for us to prevent them taking these creatures from our waters. I do not have a problem with the foreign nationals being here but with the problems that they are now creating it is very unfortunate that we now have to come to this Honourable House to legislate provisions to prevent these creatures being taken from our waters. I wholeheartedly support it.

Mr. Speaker, there are a few things I would just like to point out to the Government: Under section 6 (1) of the Marine Conservation Directives (1998 Revision) it says: "**The Board when granting a user's license shall -**

- (a) **fix the number of spear guns that may be possessed under the license, which number will normally be limited to one;**
- (b) **limit the number of fish that may be taken in any one period of twenty-four hours beginning at midnight to a maximum of six fish of which no more than three may be taken from any one species".**

Next, the amendment that is being brought under section 5, which amends the principal Law in section 15, is as follows: "**A person licensed under subsection (1) who in any one day takes more than three fish from Cayman waters by the use of a spear gun or who has in his possession more than six fish, which have been caught by spear gun is guilty of an offence**".

Mr. Speaker, I would bring those conflicting arrangements to the attention of the Government because it appears to me that there is some conflict in what the directives say, compared to what the amendment is trying to achieve. I would respectfully bring that to the Government's attention and maybe there will be need to make some committee stage amendments. However, certainly the Mover may very well have some explanation for it, but I believe there is some conflict in that area.

Another section of the amendment, which warrants bringing to the attention of the Government, is that of the taking of whelks. The amendment reads: "**The principal Law is amended in section 8 by inserting after sub-section 3 the following subsection: (4) notwithstanding subsection (1) to (3) any person who takes from Cayman waters or receives or has in his possession any whelk taken from Cayman waters during the months of May to October inclusive, is guilty of an offence**".

Mr. Speaker, my concern with the whelks is the same concern I had with the conchs during the previous amendment debate. During the month of October, in particular, when Pirates Week is held we know that sea food is one of the very popular foods during that week, therefore those people who cook during pirates week may very well gather this whelk in accordance with the Law prior to May and have it in their possession during the month of May to October inclusive. They may very well be in contravention of the Law. We have to be extremely careful that the Law is not interpreted to include those people and then they cannot prove how and when they got them, or if the amount they have was not gathered during different times, because it says: "If it is in their possession". It could mean that they have it in their freezer and they are in contravention of the Law. Whether it requires an amendment to the regulations to make provisions for that, then I encourage the Government to look very critically at this situation.

Mr. Speaker, another area that I think needs to be brought to the attention of Government is section 6 (5) of the Law which says, "**Any person who takes from Cayman waters or receives or has in his possession any conch taken from Cayman waters during the months of May to October inclusive is guilty of an offence**". While I understand our objective and we have placed on the taking of conch a season and there is a closed season from May to October, I believe it is not working. As a matter of fact, it is my experience that the provision which was passed into law during the last Revision of 2002, the country

is experiencing difficulties with it, particularly the fishermen. At the time I did not totally support bringing it down to five; I supported enforcement of the Law as opposed to trying to legislate a law where we hope morals would supersede all else. I know I am getting a number of representations on it. Even though I understand that this is the recognised breeding season, maybe it is time to lift the closed season on it and allow the five conchs to be caught throughout the whole year. Or, there may be an opportunity to make provisions specifically for fishermen who use conch as bait.

I know we discussed amendments at the last debate, and many had the view that conchs were brought into the country for consumption from other jurisdictions where there are farmed for that purpose. However, Mr. Speaker, we cannot expect the fishermen to go and buy conchs from the shop to go fishing with. Some provision needs to be put in place to assist the fishermen in that regard. I still believe that maybe the five was taking it down too much and I still stand firmly with the position that enforcement is the key. I have experienced additional enforcement, particularly in the district of East End. Again, I call for the establishment of a marine office in all the districts. The North Sound gets much more attention than the rest of the districts and I appreciate the heavy use of the North Sound and the location of the Marine Enforcement Officers being in George Town. However, I still call for an enforcement office of the marine parks to be attached to each police station within the districts whereby, we can have patrols on a more regular basis.

On Sunday I witnessed quite a number of the marine officers in the district of East End because the season for lobster taking was opened yesterday. Yes, whenever it is necessary I see a number of them there and I congratulate them and thank them for that, but in cases where there are reports of destruction or over-taking of the marine life, they all have to travel from George Town or elsewhere in the country and by that time we can appreciate that the perpetrators of the Law are long gone. So, I reiterate my call for additional enforcement.

Mr. Speaker, I heard the Leader of Government Business call for charging of commercial fees for the use of the Sand Bar, and maybe the Reefs as well, depending on the number of people on the reef. While I support that I also see the need for additional enforcement. We are attaching so much importance to this subject, which I agree with, but we are hoping against hope that people will obey the laws and they are not going to—I have seen it; I have heard of it; they are not obeying the laws. We need to ensure that this very important aspect of the country's historical development, and more importantly, financial stability, stays in place.

We need to put money into the enforcement of these laws. We need to ensure that we have enforcement officers on the water every hour, on the hour of every day, seven days a week; that is, during

the daylight hours. It is highly unlikely that people will go at night and take as much as they take during the day. They know exactly when and where the enforcement officers are and they time them and go and destroy the marine life that is so precious to this country.

Again I heard the Minister for Tourism, the Leader of Government Business speak about the possibility of new legislation coming for the Sand Bar and the Reefs, et cetera. One of the things I would like to suggest to the Minister and his Government is for part of that legislation to include provisions to prevent the use of gloves while diving. It is my understanding from people who have studied this particular aspect of diving and the marine life, that when you touch the coral in certain areas it will kill it and particularly, divers touch the coral, the marine life when they go down but more so, they do it when they wear gloves. If they do not wear gloves they are more reluctant to touch these coral heads. In my research on this particular issue I noted in Florida where there were concerns about the same thing and they were bringing legislation to prevent divers from wearing gloves when they are diving; that is scuba diving, skin diving, snorkelling, et cetera. The use of gloves should be banned from all aspects of diving. It is for their enjoyment and not to touch. We need to ensure if that is what is destroying our marine life then we need to stop them from doing that also.

Mr. Speaker, I welcome the provision back into the Law preventing lobsters being taken below 6 inches in length, and the taking of any species of lobster other than the spinal lobster because they are taking all types of lobster out of our marine environment. Like I said earlier, the worse thing about this is that it is not Caymanians who are doing it. We know when we go to take lobsters which ones we are used to eating and the ones we are allowed to take. Yes, I see the lobsters are on the rebound and many people have welcomed the reduction in lobster to three. I too welcome the reduction and maybe we will see an abundance of them like we did before.

When I spoke earlier of the need to allow the conchs to be taken year round since it is now reduced to five, I would encourage the Government to look at the possibility of making provisions within the regulations for it to be done in different areas because the Marine Conservation Board has the right to lift those regulations, under the Law, when and how they see fit. I believe for instance, in the North Sound, this has been over-fished. In East End there are areas where the conchs are very much on the comeback. I also believe that Government should look at putting different sections in the country where conchs cannot be taken for a particular period of time and monitor it religiously, judiciously and then we will see a comeback on the conchs.

Again, Mr. Speaker, my plea to the Government, is to look at those different areas that I just expounded on and see if there is anything that can be

done; it may be done in the regulations or we may make committee stage amendments to this new proposed amendment to the Marine Conservation Law (2002 Revision).

As I promised the Leader of Government Business, in December and March, when I brought Private Member's Motion No. 1 of 2002, we, the Opposition support our marine environment in the interest of our country. However, we have to be very critical of who and the factions that are being inhibited by the Laws and the amendments to the Laws that we are bringing because throughout these three Islands we have fishermen who use fishing as a means of living. It is traditional for them to fish at certain times with conchs and lobster and there is no other way they know and I would like the Government to consider that by looking at the possibility of making provisions to assist that section of our society who depends upon fishing as a living.

I thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? If no other Member wishes to speak does the Minister for Tourism wishes to exercise his right of reply?

Hon. W. McKeever Bush: Thank you, Mr. Speaker.

I would like to thank the Elected Member from East End for his support in some areas. As I said, we already believe that we are moving in the right direction in regards to protecting our natural environment. He raised several points and I certainly want to speak to a few of those, but to deal with the most contentious and that is the catch limits.

The Member said that the country is experiencing some problems already with the catch limits, conchs in particular, I think he spoke of. He asked that we lift the limit and have five conchs per person all through the year but, Mr. Speaker, I cannot agree with that. I have had the opposite view expressed to me; people say it is good and that conchs are now coming back already and they can tell the difference. Right now the limit is ten conchs per boat or five per person and I do not see why we should be changing them; I think we need to give it time to work. We took long in getting to this point and I was surprised at the amount of support I received from the public on this matter. Normally people do not want to be restricted in any way but the truth is education is working. Awareness has risen and people want to see more protection of our marine environment. I will say to the Member that I will not be proposing any amendment at this time. I think that what we have worked out needs to stay there. What that Member needs to do, including all of us, is to educate our constituents as to the long term good of what we are doing and the few people that might find it a bit inconvenient because they use conch as bait, perhaps they can find something else that works as well as conch.

Mr. Speaker, all of us when we get in certain arenas, whether it is a district party or a district public meeting, these are the kinds of things we need to be educating the public on, in helping them to understand the importance of what we have done in regards to the environment. So, I will not be proposing any amendments in that regard.

I believe the Member has a point about the gloves and I will certainly look at that. I am thinking, as I said earlier, about an amendment in committee, as to whether we allow people work permits to fish without a license. My mind is made up and I think that is what I am going to propose; that there is a requirement for a license and a charge for that license and that stiff penalties be in the amendment for people who would otherwise break the Law. I do believe that we need to be much harsher than we are on this and this is not to say that this is against any particular nationality or against any foreigner, and I hope that is not what would come out of this. I have seen it myself and I have had dozens of complaints about the size of fish that is being caught with a hand-line and a net from the shore. All sorts of methods are being utilized. Unfortunately we have people who might not do this all the time—I am talking about people on permits—and will have to suffer the inconvenience, but the purpose is for us to do something good that is going to last a lifetime and that our posterity will rise up and say that at least we tried to do something. This is one effort and I am going to put forward the amendment. I do give notice here for that amendment in committee stage. I believe that the entire House is in support of this proposed amendment before us and for those that I am talking about, for committee stage.

Mr. Speaker, if there are other concerns by Members they can raise them in committee stage. I would ask Members not to try to push any amendments on what we have just done because the Department went through this and has looked at it carefully. I hope that when we get to committee stage on the Bill we can be on all fours.

Thank you kindly.

The Speaker: The question is that a Bill shortly entitled, The Marine Conservation (Amendment) Bill 2002, be given a second reading. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: The Marine Conservation (Amendment) Bill 2002 given a Second Reading

The Development and Planning (Amendment) (No. 3) Bill 2002

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I move the Second Reading of The Development and Planning (Amendment) (No. 3) Bill 2002.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Mr. Speaker. The Development and Planning (Amendment) (No. 3) Bill 2002 amends the Development and Planning Law 1999 Revision and the Development and Planning Amendment (No. 2) Law, 2002.

The Development and Planning (Amendment) Temporary Provisions Law 2001 enabled the temporary reduction of contribution payable to the infrastructure fund. The amount of the contribution was reduced by 50 percent for a period of one year commencing on the 14 November 2001.

Mr. Speaker, the main purpose of this Bill by virtue of clause 1 (2) (a), clause 1 (3) and clause 2 is to extend this one year concession by another six months. Clause 3 enables the making of regulations prescribing fees, tariffs or charges for miscellaneous services provided under the principal law. Clause 5 validates any collection of such fees, tariffs or charges that took place prior to the commencement of the enabling legislation.

Section 2 of The Development and Planning (Amendment) (No. 2) Bill 2002, seeks to enable persons to appeal against decisions of the Central Planning Authority irrespective of whether or not those persons reside in the Cayman Islands. However, section 2 erroneously refers to the wrong section and clause 1 (2) (b) and clause 4 of this Bill effects the necessary correction.

Mr. Speaker, I believe that they are the significant and primary areas of this amendment Bill and I would commend it to all Honourable Members.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Minister for Planning wish to reply?

Hon. Linford A. Pierson: Mr. Speaker, only to thank all Honourable Members for their tacit support of this most important amendment.

The Speaker: The question is that a Bill shortly entitled, The Development and Planning (Amendment) (NO. 3) Bill, 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: The Development and Planning (Amendment) (No. 3) Bill 2002 given a Second Reading.

The Electricity (Amendment) Bill 2002

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I beg to move the Second Reading of a Bill for a law to amend the Electricity Law (2000 Revision) to allow undertakers to compulsorily acquire land for the purpose of providing an electrical supply on the Islands and for connected purposes.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

The Title of the Bill along with the Objects and Reasons summarises the changes being effected. However, the overall purpose and aim of the amending Bill, is to strike a careful balance between facilitating the provision of an efficient and safe electrical supply while at the same time safeguarding individual property rights. In short the amendment addresses the following issues by clause:

-Clause 1 - the Short Title.

-Clause 2 - Expands the "definitions of mains" to include "fuel lines" and "fibre optic lines" and also includes "Minister" in the definition section.

-Clause 3 Repeals the current section 19 on "wayleaves" and substitutes a new comprehensive section 19(1), which provides for the undertaker to conduct work with regard to private and public lands and specifies that a license is required from the person whose interest in the land is affected. It also provides for emergency work to be carried out and that the undertaker must furnish plans as soon as practical. Where repairs to roads are required, Public Works Department (PWD) to assess cost, carry out repairs and undertaker pays. This section also provides for the undertaker to use all reasonableness to ensure that works do not become a source of danger.

Clause 4 - provides for the following:

Section 19(a) - Coordination of work between the undertaker and other utility installations and the provision of at least one months notice in writing for any alterations unless they are emergency works;

Section 19(a) - Protection from interference to telecommunications apparatus and conversely for electric mains and for conflict to be referred to arbitration;

Section 19 (c) – deals with the Acquisition of wayleaves over property by the undertaker giving 21 days notice. It also provides for the Minister to grant the wayleaves in certain cases;

Section 19(d) – the occupier or owner of the land where a wayleave has been granted to recover from the undertaker reasonable compensation for any damage caused;

Section 19(e) – this deals with temporary continuation of wayleaves;

Section 19(f) - Where trees are in close proximity to mains, it requires the owner to fell and lop the trees.

After 14 days notice the undertaker can cause work to be done and recover cost from owner of land;

Section 19(g) - Undertaker to enter the land for the purposes of ascertaining whether the property is suitable for purposes connected with activities of the undertaker by providing 14 days notice in writing of intent;

Section 19(h) – Fines of up to \$1000 for any person who intentionally obstructs a person acting in the exercise of their duty and provides for undertaker (at their option) to either repair damage or pay reasonable compensation to the person with an interest in the land;

Section 19(i) – Upon application from the undertaker and where it is in the interest of the public, the Governor-in-Council may permit an undertaker to compulsorily acquire land or rights over land required for purposes connected with carrying out their contracted duties, including other land required for the purpose of exchange;

Section 19(j) – The procedure for acquisition of land and the payment of compensation by the undertaker is set out in the Schedule to the Law;

Section 19(k) - Where land acquired is no longer needed, the Undertaker can dispose with the consent of the Governor-in-Council;

Clause 5 repeals section 20, which deals with the registration of wayleaves.

Clause 6 inserts this Schedule to the Law, which sets out the procedure to be followed when undertaking compulsory acquisition, and follows certain provisions of the Land Acquisitions Law. It deals with such matters as assessment of compensation, arbitration, determination of compensation by the Assessment Committee or a judge; payment of court costs, award of costs, determination of compensation by the Grand Court; further appeal to the Court of Appeal; a 2 year limitation on claims, fines for obstruction; payment of reasonable costs by undertaker; special provision for mortgages and special rules as to leased land.

Mr. Speaker, I want to recognise the assistance we have received from the Caribbean Utilities Company in working very closely with the Ministry and indeed also with the Legal Department on this very important piece of amending legislation. I would commend this piece of legislation to all Honourable Members of this House.

Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak? The Elected Member for East End.

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

I rise to make a short contribution to the Bill for a Law to amend the Electricity Law 2000 to Allow Undertakers to Compulsorily Acquire Land for the Purpose of Providing an Electrical Supply in the Islands; and for Connected Purposes.

Mr. Speaker, my concern regarding this amendment is that of compulsory taking of land for

wayleaves. I understand the objective of Government assisting any undertaker to ensure in the best interest of the country that electricity is delivered to all of the country and its residents; and that it also provides for the development of the country to go on an 'even keel' making sure that we do not get into a situation where the undertakers cannot deliver that service, and development suffers as a result. I have been there, Mr. Speaker; I know what it is like. However, I question the timing of this particular amendment because as we all know the current undertakers, CUC over the last couple of years or four years maybe, have increased and developed their infrastructure to the point that it will be quite a long time before any infrastructural development will be required and I know we may say that we do not know what the future brings.

Mr. Speaker, wayleaves, as I know are usually used for cross-country and certainly, along roads as well, but in particular, wayleaves are done for transmission. That is their primary purpose, ensuring that you get transmission, the shortest route to wherever it is intended to be distributed from. There is a difference between transmission and distribution of electricity and it is transmission that we primarily use these wayleaves for. I have seen and I know in recent years like I have said, the current undertakers have gone across the North Sound in both directions to North Side and West Bay, and in addition they have also used the road reserve into East End and North Side for the development of their infrastructure to their transmission infrastructure.

Maybe, if this amendment had been brought many years ago I could see the value of it but currently the undertakers have a very good infrastructure in place and I think this country can be proud of the electricity service that it receives. Yes, cost is high but I believe that the undertakers have played a major role in the development of this country and they have always been one step ahead of the development. I also believe those steps ahead of the development are now coming in line whereby the additional, if it is needed in the future, can be done on the infrastructure that they currently have; that is re-conduct developing the transmission lines through re-conducting the cables and such. It will be a long time before that is needed in this country therefore,

So, I question the need now for these wayleaves because I would have assumed that they would have gone across the swamp into North Side where the transmission line now goes across the North Sound. I understand that anyone whose land is taken from them on a compulsory basis can be compensated for that land. We run the risk of Cayman being as small as it is and the landmass that it is, many would like to develop their properties, especially if they have a vast amount or parcels of land. Yes, we may very well say that by putting a transmission line in there it would make your property more attractive; I understand that but in most instances, when wayleaves are established, you have to build around

those and that is my concern. There are no provisions for relocation of these transmission lines within wayleaves. Maybe the Minister in his reply will address that particular aspect.

I also see where Public Works would do reinstatement of roads and so on. Of course, that is with the undertakers paying for it. I know this country faces a similar situation now where many utilities have to cut, dig up, or go under our roads, and they are never reinstated to their original manner. These are serious concerns that I think the Minister may want to address in his reply to ease one's mind because the reinstatement of roads in this country really needs to be addressed, and if we have another one not being addressed we will soon have destruction of all of our roads. Maybe not only in this instance, but penalties should be brought to the other utilities and other individuals who cut and undermine our roads.

Mr. Speaker, as I said, I understand the objective of the Minister. I think the timing may not necessarily be that well and accepted with the wayleaves because it will be a long time before we ever need wayleaves of that nature. However, what it begs for is what will happen when we are in the instance of distribution where you have to go across somebody's property; in the back of their property or a part of their land, or such. Will that be considered having to be bought? There are provisions in here for any person who is occupying the property as well where the undertaker will have certain rights to compulsory take that property. So, those are some concerns that need to be addressed because wayleaves, as I said, are primarily for transmission but certainly for distribution also, and distribution is within the residential area; transmission usually stay out of that area. I would like if the Minister could address those issues that I brought out and let us hear what the conditions are with those.

I thank you, Sir.

The Speaker: Thank you. Honourable Members, we have now reached the hour of 4.30, is there a motion to suspend Standing Orders to complete this?

ADJOURNMENT

Hon. W. McKeeva Bush: Mr. Speaker, we propose to adjourn at this time and we will come back at 10 o'clock on Wednesday. Members should be aware that we will continue on Thursday and Friday, although some Members of the Opposition will not be here but we intend to conduct business of the Legislature. So, Mr. Speaker, I move for the adjournment of this Honourable House until Wednesday 10 am.

The Speaker: The question is that this House do now adjourn until 10 am Wednesday, 4 December 2002. Would all those in favour please say Aye. Those against, No.

Ayes.

At 4.39 pm the House stood adjourned until Wednesday 4 December 2002 at 10 am.

OFFICIAL HANSARD REPORT
WEDNESDAY
4 DECEMBER 2002
10.40 AM
Seventh Sitting

[Deputy Speaker in the Chair]

The Speaker: I will invite the Temporary First Official Member to grace us with prayers.

Honourable Minister of Tourism; the Minister of Community Services; and also the Third Elected Member for West Bay.

PRAYERS

Hon. Donovan W. F. Ebanks: Let us pray.

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

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

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

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

Proceedings resumed at 10.43 am

The Speaker: Please be seated. Proceedings are resumed.

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

Apologies

The Speaker: I received apologies for the absence of the Honourable Leader of Government Business, the

**PRESENTATION OF PAPERS
AND OF REPORTS**

**The Royal Cayman Islands Police Service Annual
Report 2001**

The Speaker: The First Official Member.

Hon. Donovan W. F. Ebanks: Thank you, Mr. Speaker. I beg to lay on the Table of this House the Royal Cayman Islands Police Service Report for the year 2001.

The Speaker: So ordered,
Would the Honourable Member wish to speak thereto?

Hon. Donovan W. F. Ebanks: Thank you, Mr. Speaker. Only to thank and commend the Commissioner and his staff for having produced an excellent overview of the activities and issues which surround the Royal Cayman Islands Police. Also to commend it to Members for their scrutiny and hopefully for their edification as they take a keen interest in the performance of RCIP. I trust the Members will find time in their schedules to peruse it and to offer any comments and critiques that I know the Commissioner would welcome, and so would the office that I represent. Thank you.

**QUESTIONS TO HONOURABLE
MINISTERS AND MEMBERS
OF THE GOVERNMENT**

Question No. 78

Deferred Monday 2 December 2002

The Speaker: The Elected Member for the district of East End.

No. 78: Mr. V. Arden McLean: asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration, if Government is making any preparations to address changes in Laws that will be necessary to bring them in line with the proposed constitutional changes.

The Speaker: In the absence of the Honourable Second Official Member I wonder if I could have a motion for the deferral of that question.

Mr. V. Arden McLean: Mr. Speaker, if I may, Sir.

The Speaker: Go ahead.

Mr. V. Arden McLean: Mr. Speaker, this question has been on the Order Paper for about six months, at least two Sittings of this Honourable House and it was deferred on Monday because of the absence of the Second Official Member during which time there were apologies tendered. This morning it is back on the order paper and there are no apologies tendered, as far as I understood your messages and announcements when you made them. I would respectfully ask Sir, that an explanation be given as to why this question cannot be answered today. I guess that surrounds the absence of the Second Official Member.

The Speaker: I accept your request and I endeavour to find a response as to why the Second Official Member is not here today. In the absence of an apology I would only assume that he will be arriving a bit late. However, I will endeavour to get an answer for you.

Deferral of Question No. 78 Standing Order 23(5)

Hon. Linford A. Pierson: Mr. Speaker, in view of the absence of the Second Official Member I move that question No. 78 be deferred until later today or to some later date.

The Speaker: The question is that in accordance with the provisions of Standing Order 23(5), question No. 78 be deferred until a later Sitting or until later on today. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Question No. 78 deferred to later in the Sitting or to some later date.

Question No. 80 Deferred Monday 2 December 2002

The Speaker: The Second Elected Member for George Town.

No. 80: Mr. Alden M. McLaughlin, Jr.: asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce, what was the total cost to Government of the relocation of the Tourism Office from Miami to New York.

The Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, as you mentioned earlier, the Honourable Minister for Tourism is away on official business and I would ask that this question be deferred until a later Sitting of this House.

Deferral of Question No. 80 Standing Order 23(5)

The Speaker: The question is that in accordance with the provisions of Standing Order 23(5), question No. 80 be deferred until a later Sitting. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Question No. 80 deferred until a later Sitting.

Question No. 83

The Speaker: The First Elected Member for George Town.

No. 83: Mr. D. Kurt Tibbetts: asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture, if the Education Department staff has been trained in the procedures required to implement the Financial Management Initiative adopted by Government.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Yes. The various personnel levels of the Education Department have been provided with relevant and necessary training as provided by the IRIS and FMI office over the last three years. In 1999, two officers were trained in outputs specification and performance measures and all senior education staff and some principals on Grand Cayman were included in the various workshops. Outputs were defined and circulated for comments. Follow up workshops on accrual accounting were later held for all senior education staff, principals and or deputy principals on both Grand Cayman and Cayman Brac. Three officers in the accounts section were trained in financial and management accounting in 2001.

All officers in the accounts section have been trained in the various IRIS modules and are fully conversant with input of invoices into accounts payable, posting of revenue and journals, posting of time sheets for bi-weekly payroll. They are also able to navigate the system to access information and run necessary reports. To date, all monthly payroll adjustments are still processed by Treasury and Personnel Departments, as is the policy for all government departments. Further training will be provided to accounting staff later this year and early 2003 on various aspects of the financial management initiatives, including specific accounting modules in the multi-org IRIS accounting

programme. Systems are currently being reviewed to ensure that appropriate information is collected and reported on for quarterly output reporting.

The Speaker: The First Elected Member for the district of George Town.

Supplementaries

Mr. D. Kurt Tibbetts: Thank you. Can the Minister state if it is the plan to devolve the financial responsibility, for instance to individual schools or various sections, or is it going to remain as has been explained in the answer.

The Speaker: The Honourable Minister for Education.

Hon. Roy Boddén: Mr. Speaker, I am unable to provide an answer for the Honourable Member because that would be a policy which would have to be set by the Department of Finance.

The Speaker: The First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you. I take the Minister's point and I accept that at this point in time he is unable to give a specific answer.

With regards to the performance agreements that will come on line understandably in due time, can the Minister state if—within the Department—those agreements will be dealt with through the Ministry, or the Chief Education Officer (whatever the terminology is at that time) having a performance agreement with the Minister and then all of the other performance agreements below will be made with the Chief Education Officer?

The Speaker: The Honourable Minister for Education.

Hon. Roy Boddén: Thank you, Mr. Speaker those performance agreements, it would seem to me, would be made with the Chief Education Officer.

The Speaker: First Elected Member from the district of George Town.

Mr. D. Kurt Tibbetts: Can the Minister state if when it gets to that point and these performance agreements are dealt with, whether all of the performance agreements dealing with all aspects of education will be flowing through the chief education officer?

The Speaker: Honourable Minister for Education.

Hon. Roy Boddén: For compulsory education, Mr. Speaker, those will flow through the Chief Education Officer up to the Chief Officer who is the Permanent Secretary in the Ministry.

The Speaker: If there are no further supplementaries we will move on.

Madam Clerk, just before we move on I would like to address the concern raised by the Elected Member from the district of East End. I have just received notice that the Second Official Member is in court today and will not be attending this session today. He is asking that apologies be extended.

Question No. 84

The Speaker: The First Elected Member for George Town.

No. 84: Mr. D. Kurt Tibbetts: asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture: Does the Education Department have an effective policy for the continuing professional development of all teaching and support staff?

The Speaker: The Honourable Minister for Education.

Hon. Roy Boddén: The Education Department has an effective policy for the continuing professional development of all teaching and support staff. Since 2001 all teachers were encouraged to attend professional staff development workshops at the new school year. This year these workshops were compulsory in order to ensure that all staff avail themselves of the training. Schools will conduct their own training initiatives on one of two remaining in-service days. Additionally, the annual national education conference is developed to meet training needs in specific areas. The schools inspectorate also provides training for senior managers during their two days senior management training conducted at the end of term. The policy is usually to have at least three teachers avail themselves of one year's overseas training each year. However, with the new national education leadership training beginning this January it is expected that funding will be used to target a greater number of participants.

Teachers also attend various overseas workshops sponsored by the Mathematics Association, International Reading Association, and Librarian Forums on an annual basis. Several PTAs have assisted schools with this funding over the years. Prior to 2001 teachers and other educators were supported in their efforts to upgrade their academic standards through the Commonwealth scholarships, as well as through the Personnel training unit. In other cases individuals were granted requests to pursue training at their own expense but with support by way of study leave.

Teachers and senior managers continue to acquire degrees and other advanced qualifications through their own initiatives and in order to enhance their professional development. Distance courses have been utilized for this purpose.

The Speaker: First Elected Member for the district of George Town.

Supplementaries

Mr. D. Kurt Tibbetts: Thank you. Can the Minister state if there is a system whereby specific needs are identified within the Human Resource section of the Education Department and existing staff are given opportunity if they so desire, to acquire the necessary training to fill those posts if there is no one available locally to do so.

The Speaker: The Honourable Minister for Education.

Hon. Roy Boddén: Thank you, Mr. Speaker. One of the approaches taken with regards to the Honourable Member's question is that principals are asked to identify specific requirements for posts. An assessment is then made to ascertain whether there are any Caymanians available locally to fill those posts and if so, those Caymanians are then put in a position where they can take up the posts. So, if a need has been identified and is not addressed by virtue of the fact that there are no Caymanians, then they are encouraged to avail themselves of exposure so that in the future they can be available for such a post.

The Speaker: First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you very much. The Minister raised a very important point when he mentioned Caymanians. I think that we will all agree that there (I do not know what the proportions are at present) are certainly more teachers non-Caymanian than there are Caymanian and there is always an attempt to try to get more Caymanians interested in qualifying for that profession. How does the Education Department deal with all of the training that they speak to? Is it across the Board or is there leaning in any direction with regards to what is made available?

The Speaker: The Honourable Minister for Education.

Hon. Roy Boddén: Mr. Speaker, it is the policy of the Ministry, and by inference, the Department, to be fair, lenient and democratic. It is true that Caymanians in the teaching vocation are in the minority. So, in those positions where posts are unfilled because there are no Caymanians available, then quite naturally, out of fairness and appreciation for the services of teachers from overseas they have to be considered, and they are considered. I wish to also say that these needs and posts to be filled are usually identified by the school's inspectorate out of their reports, which are submitted at the end of the inspection, so that we try to be as proactive as we can in identifying and providing training for these posts. However, I wish to say to the Honourable Member and to all Honourable Members that there is no penalty imposed on non-Caymanians if a post cannot be filled by a Cayma-

nian. We certainly consider persons in the service for the posts.

The Speaker: The First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you. I wish to thank the Minister because I am certain that that would not have been the case so the question was not geared to try to lean in that direction. Perhaps if I asked another supplementary in a different manner maybe I will get closer to what I am trying to achieve. When it comes to the offering of scholarships, for instance, for tertiary education for Caymanians to avail themselves of the opportunity to become teachers, is there anything in place whereby the Education Council via the Department is able to say that these are specific needs and we are looking for Caymanians to train in specific directions in a pointed effort to get as many as possible who might wish to grasp the opportunity? I do not speak to simply the teaching profession; I go a little further with it to speak of the specialist areas where I think it is accepted that as good as you are, if you have as many of your own in such posts as possible, is as better as it can get. So, I am just wondering if there is any policy or any leaning in that direction.

The Speaker: The Honourable Minister responsible for Education.

Hon. Roy Boddén: Thank you, Mr. Speaker. I thank the Honourable Member for his supplementary because it gives me the opportunity to elaborate on what we have been doing since reorganising the Ministry and the three Portfolios: Education, Human Resources and Culture. Arising out of the Report, which was commissioned by myself when I came to the Ministry earlier, we made very concrete moves to address the challenge of attracting more Caymanians into the teaching vocation. I believe that we are making concrete steps. First of all we are encouraging the continuation of persons entering the profession through teacher's aids and gaining valuable experience in the classroom situations, on-hand experience in classroom management and watching teachers perform. Also, we have given the extra incentive of two persons, not only in the teaching profession but also those in health, because we have realised that this is an area where we need to attract more Caymanians.

So, beyond the normal annual scholarship grant of C\$17,000 per year, if you are training for anything in the teaching or allied fields, that is, counselors, psychologists, et cetera, you will get an extra incentive, which is designed to encourage people to go into these vocations.

Most recently we had about six young people taking up scholarships to study teaching and allied fields. There is one young man whose situation is very vivid in my mind. He is studying guidance counseling and we have another promising group of young Cay-

manians training in the education field. So, I would like to say to the Honourable Member that there are opportunities and the Education Council quite wisely have given the added incentive of extra money beyond the normal scholarship grants if the young people go into the teaching and health fields.

Music teachers are persons who we are short of and we have successfully encouraged—I think we have two young persons now studying in this area. So, we are beginning to be encouraged by the interest our young people are demonstrating in the teaching vocation.

The Speaker: Honourable Members, we have now reached the hour of 11 am. Can I have a motion for the suspension of Standing Order 23(7) and (8) to allow Question Time to continue?

Suspension of Standing Order 23(7) and (8)

Hon. Linford A. Pierson: Mr. Speaker, I move the suspension of Standing Order 23(7) and (8) to allow for Question Time to continue beyond the hour of 11 am.

The Speaker: The question is that Standing Order 23(7) and (8) be suspended to allow Question Time to continue beyond 11 am. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Standing Order 23(7) and (8) suspended in order for Question Time to continue beyond 11 am.

The Speaker: The Lady Member for the district of North Side.

Ms. Edna M. Moyle: Thank you Mr. Speaker. In the Honourable Minister's answer to the original question he says: '**Since 2001 all teachers were encouraged to attend professional staff development workshops**' and he also said, '**teachers attend various overseas workshop sponsored by the mathematics association, international reading association and librarian forums on an annual basis**'. I have a question to the Honourable Minister since he has publicly stated that every student in government primary schools will have access to computers. My question is: Would the Minister say if any training has been carried out to ensure that the staffs of these schools are computer literate, or will there be sufficient specialist teachers in IT provided to all these schools?

The Speaker: The Honourable Minister for Education.

Hon. Roy Boddén: Thank you, Mr. Speaker. That training is going on even as we speak, and I am happy that the Honourable Lady Member has given

me the opportunity to say that the new programme, which we hope will shortly be publicly launched on improving teaching and learning in the Cayman Islands or italic, as the acronym goes, will concentrate during phase 1 on bringing all teachers up to standards set for using information technology in the classroom; for record keeping and for communication with peers, students, parents and the Education Department staff. It is anticipated that the bulk of the training and certification of teachers will be completed during this academic year. Mr. Speaker, this is a major undertaking where we have as our strategic partners IBM; it is a phased programme and it will run over approximately five years and culminate in the accessibility of every student in the public school system to a computer so that they can have to do their work at school.

The Speaker: The Elected Member for the district of East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. In the substantive answer given by the Minister, it says that the schools' inspectorate also provides training for senior managers during their two-day senior management training conducted at the end of term. My question is: What does this entail and if the courses that are compulsory for the other teachers, which is in the first paragraph of the substantive question, also entails development of management skills?

The Speaker: The Honourable Minister for Education.

Hon. Roy Boddén: Mr. Speaker, the training provided by the schools' inspectorate is related to findings in the inspection report. For example, the inspectorate may identify certain weaknesses, which are common among teachers in a particular school or may be common among teachers in particular schools; that training which they provide is designed to alleviate those weaknesses that could be in methodology of delivering the subject matter or it could be in classroom management. That training is specific to their inspection reports and their observation. However, in addition to that, the schools' inspectorate has embarked on a major training initiative—(National Education Leadership Training, which will begin in January. This has to do with preparing teachers to become principals and to be administrators.

The Speaker: The Elected Member for the district of East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. My question then to the Honourable Minister: is: Are there any provisions made for other teachers (other than senior managers to become principals, et cetera) to become senior managers by having succession planning in the area of management of institutions, interpersonal skills, et cetera?

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, training is provided for teachers who are interested in the areas that the Honourable Member has inquired about, and not just senior teachers; it goes on now; management aspect, classroom administration and so on. With regards to the National Education Leadership training, serving principals will of course be, in a manner of speaking, the first tier candidates. Certainly the training is also open and we encourage other interested teachers to participate. While acquiring the certification, in their case, is not necessarily an immediate guarantee of promotion; it certainly will help them down the line in any consideration in instances of vacancies that become available. We encourage them to the credit of the Ministry and the inspectorate, I think some kind of system is being worked out where it will not be onerous upon these persons who so subscribe. We see this as putting us in a better position to be more accurate in our succession planning by virtue of the fact that of course we will keep records of all those who successfully complete this training.

The Speaker: The Elected Member for the district of East End.

Mr. V. Arden McLean: Thank you Mr. Speaker. I thank the Minister for that reply. My question then is: Are there any provisions in place to identify potential managers and target them for these courses? He said that the Education Department and the Ministry encourages teachers to take these courses. So, do we target potential managers and give them specific training to reach that point?

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Yes, Mr. Speaker. Performance appraisals are carried out and as a result of those appraisals, persons with particular aptitude and abilities are identified, encouraged and are put in positions where they can avail themselves of opportunities for upward mobility to these administrative and senior positions. That is definitely a part and a practice which is adhered to.

The Speaker: The Elected Member for East End.

I will allow one additional supplementary after this one.

Mr. V. Arden McLean: Mr. Speaker, it is encouraging to hear that. I am wondering if the Minister has available to him the number of teachers who have been targeted over the last year to go to these specific courses and why they were targeted. Is it because of their aptitude et cetera why they were targeted for those specific positions and sent to training, while understanding that they may not necessarily get a position as a result of completing the training as was just

said? In particular, I know there are a number of young teachers in the East End School and that is specifically what I am driving at—the school in East End where there is a number of very good teachers. I am wondering if somehow they may be included not necessarily the names, but if any of them has been identified in East End for that specific purpose.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Thank you, Mr. Speaker. In reply to the Honourable Member's supplementary question, there are, as of this moment, two teachers who are being so prepared, one in reading and the other in management. In addition to that there are succession plans in every school especially in the major schools. In further reply to the Honourable Member's supplementary it would be unwise for me to be so specific as to give names. Suffice it to say however, that the education authorities are aware of those teachers—the young teaches especially, who show promise. Even as we speak, preparations are being made so that they can be encouraged to avail themselves. When the National Education Leadership training programme comes on line in January we are going to see that those teachers who display leadership aptitudes and abilities avail themselves of such training.

Mr. Speaker, I want to say that it is a credit to the education authorities and Ministry that we have realised the old way of choosing teachers on the basis of their seniority probably, and also on their ability to manage their classroom, is no longer good enough for the selection of modern day principals. These principals must have special training. Let me take this opportunity to say that I am pleased with the way that the Ministry and the Education Department is going, which is not to say that there is no room for improvement in some areas but we have taken off and from here on, in the recruiting process all of the teachers recruited will have to be information technology literate or computer literate, as is more commonly spoken about. That is a first criterion that new recruited teachers now will have to meet because we are serious about information technology and its integration into the education of our children.

The Speaker: The Elected Member for the district of East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. I am very glad to hear the Minister expound on that particular point. I welcome that! My next question to the Minister is: Now that we have decided that in the not-too-distant future we will have at least a third high school, as we are calling it, has provisions been made to identify a few of our young Caymanians to be trained to take over the new high school slated to come on line in the eastern district? Not to necessarily let them know that that is the specific reason why we are identifying them. I believe it would certainly give other po-

tential teachers encouragement to know that a number of people are being trained to take up posts in our high schools—management posts.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Thank you, Mr. Speaker. In reply to the Honourable Member's supplementary, let me say that while we encourage young Caymanians to aspire towards leadership, senior management, administration and principalship, we are happy when we get promising teachers—those who displays good classroom management skills, good imparting skills, excellent rapport with the children, a respectful relationship with parents or home school association—who opt to remain in the classrooms in direct contact with the children, because of course, the system is predicated upon good teachers and we can only absorb so many administrators or so many principals. That said, however, I can assure the Honourable Member that if I am around when the school is completed—irrespective of whoever is around it would be most impolitic to expect that a Caymanian would not be principal of that school, when the other two high schools have Caymanian principals.

So, I would have reason to believe that while there may not, as of this minute, be any specific identification of a person that the system we have in place to provide leadership training should allow us to choose – indeed, Mr. Speaker, if I may inject what I think is sound management and recruiting principle. I would not just identify one person but I would identify and train a pool of persons from which this prospective principal could be chosen. There might be a danger in identifying only one because something may happen or that person may decide against taking the post when it comes down to the final analysis. Therefore, I can say to the Honourable Member that I am sure we will be in a position to identify a pool of persons from which the principal can be chosen when the school comes on line.

The Speaker: There are no further supplementaries. Madam Clerk, next question.

Question No. 85

The Speaker: The First Elected Member for the district of George Town.

No. 85: Mr. D. Kurt Tibbetts: asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture, if the Education Department has prepared an Assets Management Plan, detailing the condition of the Islands' school buildings and facilities.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: The Education Department has not prepared a formal written Assets' Management Plan. The facilities officer, in conjunction with the Public Works Department, maintains an ongoing record of required minor works projects which are prioritized and completed as and when funds are available in the various school budgets. Items of major works that become essential are referred to the Ministry for procurement of funding. Since the incident with the George Hicks school structural engineers have inspected most buildings of similar age and structure. Their reports were commissioned directly by Public Works Department which is responsible for advising the Education Department of any matters requiring attention. As required by the financial management initiative the Education Department is currently in the process of recording and assigning values to all furniture, computers and other equipment in the form of an asset register. To the best of our knowledge the Public Works Department and the Department of Vehicles and Equipment Services have already valued buildings and vehicles.

The Speaker: The First Elected Member for the district of George Town.

Supplementaries

Mr. D. Kurt Tibbetts: Thank you. I see in the substantive answer where there may be some consideration that the question was dealing with the Financial Management Initiative (FMI); leaning in that direction. However, just so that the Minister will understand with my supplementaries, the direction in which I was heading with the question while he did address some areas with that in his answer, was purely a matter of the physical plant, the condition and how the Ministry through the Department and seemingly through Public Works Department would be able to make sure that they are on top of the situation. As the Minister has said in his last paragraph: *"To the best of our knowledge the Public Works Department and the Department of Vehicles and Equipment Services have already valued buildings and vehicles"*—outside of the value, can the Minister say if it is the intention of the Ministry to develop a plan on an ongoing basis, which would cause the Ministry to have full knowledge of the condition of all of the public school buildings and to know and be able to identify at all times what remedial works are necessary in order to ensure that at no point in time would anyone be caught by surprise as has happened before? I do understand when I asked the question that the buildings disbursed throughout the Islands are different ages and in different conditions and it is for that reason why I asked the question.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, there is what we call a capital works committee, which meets on a monthly basis to discuss and where necessary to schedule needed works to school buildings. That is a committee upon which on occasion the Permanent Secretary and myself sits, but always the Chief Education Officer or her Deputy, as well as other representatives from the Education Department. So, we are abreast of the conditions of the various physical plants and try to pre-empt any serious breakdowns. Regrettably, that is not always the case, as was the instance at the George Hicks high school with those blocks. Thankfully we got it rectified in time and in a way that there was no major disruption for any sustained period.

Mr. Speaker, I want to mention—and I am sure the Honourable Member asking the question will again realise the situation which exists at the John Gray High school. It is becoming of critical importance that we make provisions for this. The physical plant is old, probably the buildings have already achieved their natural life span and we are going to be in a quandary if we do not begin to do something soon. I have been speaking with the Permanent Secretary and the Chief Education Officer and we have been discussing setting up the establishment of a 'search committee' to identify a suitable site on which we could construct a high school to replace the John Gray High school. The way that school is constructed makes it impossible to do any extensive repairs or replacement of buildings at the same time that school is in session. Inconceivable! We cannot afford, as you would know, to have it otherwise. We have absolutely no accommodation other than what we have now. So, we are thinking and hoping that we can be proactive enough to rectify that situation before it becomes a crisis.

Mr. Speaker, I have—in the usual thorough methodical and meticulous way that I like to operate—discussed an alternative, which I am not prepared to air at this point because I would like for my technical people; the Permanent Secretary and the Chief Education Officer, perhaps with the inclusion of some other people to go through it with detail. However, I am fearful that—and I do not want to sound any alarm or be an alarmist—the John Gray High school, if it lasts the way it is now for five years, that is the maximum.

The Speaker: The First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you. Given what the Minister has said, it becomes clear that it is for reasons inclusive of what his answer has been why I have asked the question. Obviously, there will be some time lag before a solution is forthcoming regardless of how strong the efforts are or how quickly the resources become available. So, I would ask the Minister, understanding the way the system works with the Public Works Department and the liaison that has to occur because it is not directly under the Ministry,

would the Minister consider at this point in time dealing with the specific situation to ensure that his Ministry is not—and I am not casting aspersions—totally dependent on a big pool, which is what happens now? The Public Works Department is called by everyone and they have to juggle the act because who screams the loudest is who they answer first. I would ask him to try to develop some method by which there can be clear indication at all times as to what needs to be done, not just as a matter of safety, but that most importantly, and understanding that there will be some time before a permanent solution is arrived at.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, I take the Honourable Member's point and I think that his concern is a legitimate and reasonable one. I wish to say that we are trying to be as proactive as he articulated we should be. We have already taken a step because the Ministry of its own volition secured the services of an expert in school design whose services we had available to us from the days of the Lighthouse school design and now made available to do the new third high school in Frank Sound. Therefore, we are minded to retain those services to address the challenge we have with the John Gray High school. Mr. Speaker, I would like to discuss how we might move forward to address this some more with the Permanent Secretary.

When I came to the Ministry at the beginning I was minded to set up a broad search committee and I would like to discuss the ramifications of this a little further with the Permanent Secretary and other technical people. I certainly would like to include as broad a cross-section of people because this is a national issue and the education of our children is important. I do not believe that it should be exclusive because the broader the involvement the less chance there is of any one faction saying they were not represented and did not have any input and it is a wrong decision, the wrong place and time. So, I want to remove as much as possible, not the politics of it; there will be politics; it will be the policy of whichever Minister is there, but this business of arguing and time wasting by leveling accusations of misrepresentation or unrepresentation. I would hope that within the first three months of the New Year we can be in a position where we have discussed it at the Ministry level and perhaps at the Education Department level to where we can announce that we are moving forward with whatever decision we have taken. Whether we are going to have a committee or whether we are going to rely on the experts so that we can begin to address the challenge before it comes to crisis proportions.

The Speaker: The First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you. Understanding what the Minister has said and being specific in the area of the John Gray High school, but looking at the wider picture with certainty that the Minister understands this; it is a fact that buildings, vehicles, human bodies, whatever we look at, maintenance is the order of the day for longevity. I do not profess to have full knowledge of it but I know that on many occasions any maintenance is done on almost at a crisis level when things have to be done people respond. On many occasions things are being asked to be done for months and months, on-end before anything happens. That is not blaming any specific agency but understanding the way the system works now I would ask the Minister, after that little preamble, to seriously consider the broader picture to ensure that something is put in place where there is constant checking of all of the schools physical plant so that proper maintenance can be on an on-going basis in order to ensure that we do not in the future, end up with the same problems that we have at present.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, I accept the importance of what the Honourable Member requests and would say to him that there is currently a facilities officer whose role and responsibility is to do exactly what the Honourable Member articulated. He is to go out and make assessments and bring it to the attention of the authorities so that we can be as informed as we can be before something happens and reaches crisis proportions. Therefore, if necessary, we can take proactive measures and instead of having to repair after the fact, we repair before.

The Speaker: The Elected Member for the district of East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. The Minister spoke at length about repairs but I am wondering if he can also give us an undertaking that this same process will be followed for enhancement at the physical structures, particularly, the school in East End, which has been there much longer than the George Hicks—some 30 years with the lack of facilities.

The Speaker: The Honourable Minister for Education.

Hon. Roy Bodden: Mr. Speaker, that Honourable knows, and if he does not know he can be assured now that we take the business of education seriously, in all of its myriad aspects and manifestations and we believe that learning is enhanced by safe, aesthetically pleasing and clean physical facilities. I believe that we have achieved that. I have to say in all graciousness that I inherited significant challenges but I have to admit also that great emphasis and care was taken to provide good physical plants. It is just that in a growing system that we have, it is well, not impossible to physically maintain all of the plants to 100 per-

cent all the time. However, the structures, comparatively speaking, are good. Certainly, it is not the intention of this Government to let any of the facilities run down. We have challenges, yes, and we have to provide – and we get requests almost on a daily and weekly basis for the extension of facilities.

The school in the district where the Honourable Member who raised the supplementary represents is one of those that we are cognizant of. Unfortunately and regrettable we do not have the financial resources to deal with all the requests at one time. We have to prioritise and juggle. Sometimes we have to pray about which gets addressed and when; but we give the commitment that we are going to maintain all of the physical plants to the optimum level necessary. It is incumbent upon us to do so to provide for the safety of the children as well as the teachers. As I said, these surroundings determine what kind of learning takes place. So, we are aware and I think we are doing a commendable job and I give the Member the undertaking that his requests will be treated with the same seriousness, as are all the others, which we received. No one will be left out if the resources are available.

The Speaker: If there is no further supplementaries, we will move to the next item of business.

GOVERNMENT BUSINESS

BILLS

Suspension of Standing Orders 45, 46 (1) and (2)

Hon. Linford A. Pierson: Mr. Speaker, I now move the suspension of Standing Orders 45, 46 (1) and (2) to allow for the First Reading of The Companies (Amendment) (No 2) Bill 2002.

The Speaker: The question is that Standing Orders 45 and 46(1) and (2) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Standing Orders 45 and 46(1) and (2) suspended to allow the First Reading of The Companies (Amendment) (No 2) Bill 2002.

FIRST READING

The Companies (Amendment) (No 2) Bill 2002

The Speaker: The Bill is deemed to have been read a first time and set down for the Second Reading.

SECOND READINGS

The Electricity (Amendment) Bill 2002

(Continuation of debate thereon)

The Speaker: Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Minister wish to exercise his right of reply?

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

On Monday when this Bill was introduced the Elected Member for East End raised a number of very important and interesting points. He expressed the concern regarding the compulsory acquisition of land for wayleaves. He also stated that maybe if an amendment had been brought many years ago he could support the Bill. I am not quite sure of what was meant by that statement but I will, nonetheless, try to cover some of the questions that were raised by him by referring to the Bill itself.

Mr. Speaker, I believe the answer to the concern raised by that Honourable Member can be found in Clause 4, section 19 (c), (d) and (e), which deals specifically with wayleaves; 19 (c) deals with the acquisition of wayleaves; 19 (d) I a provision supplementary to 19 (c) and 19 (e) deals with the temporary continuation of wayleave. It is therefore not correct to assume that the undertaker can move in on property as he so pleases. Clause 4 section 19 (c), just for the information of this Honourable House and the listening public, with your permission, reads as follows:

“19 (c) (1) This section applies where-

- (a) for any purpose connected with the carrying on of the activities which he is authorized by his contract to carry on it is necessary or expedient for an undertaker to install and keep installed a main under or over any land; and**
- (b) the owner or occupier of the land having been given a notice requiring him to give the necessary wayleave within a period (not being less than 21 days) specified in the notice-**
 - (i) has failed to give the wayleave before the end of that period; or**
 - (ii) has given the wayleave subject to terms and conditions to which the undertaker objects, and in this section as it so applies “the necessary wayleave” means consent for the undertaker to carry out activities to which this Law applies.**

(2) Subject to subsections (3) and (4), the Minister may, on the application of the undertaker, grant the necessary wayleave subject to such terms and conditions as he sees fit; and a necessary wayleave so granted shall, unless previously terminated in accordance with the term contained in the wayleave, continue in force for such period as may be specified in the wayleave”. Subsection (3) continues Mr. Speaker:

(3) “The Minister shall not entertain an application under subsection (2) in any case where-

- a) the land is covered by a dwelling, or will be so covered on the assumption that any planning permission which is in force is acted on; and**
- b) the main is so installed on or over the land”.**

Four continues:

(4) “Before granting the necessary wayleave, the Minister shall afford-

- (a) the occupier of the land; and**
- (b) where the occupier is not also the owner of the land, the owner, an opportunity of being heard.”**

So, Mr. Speaker, there is really sufficient protection under this amendment for the occupier or owner of any property over which a wayleave would be used. Nonetheless, Mr. Speaker, I do take the point made by the Honourable Member and these particular points shall be brought to the attention of the relevant officers within my Ministry as also to the Caribbean Utilities Company Limited. I wish thank the Honourable Member for his contribution to the Motion and to all other Members who through their tacit support of this Motion have given their agreement to it. Thank you, Mr. Speaker.

The Speaker: The question is that a Bill shortly entitled, The Electricity (Amendment) Bill 2002 be given Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: The Electricity (Amendment) Bill 2002 given a Second Reading.

The Stamp Duty (Amendment) Bill 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading a Bill entitled, The Stamp Duty (Amendment) Bill, 2002.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. George A. McCarthy: Yes, Mr. Speaker. The worldwide economic growth in 2001 was already sluggish before the terrorist attacks in America on the 11 September. Those tragic events caused economies throughout the world to experience even greater difficulties. The Cayman Islands are not an exception to this general rule. The Government therefore has the difficult task of determining stimulative measures that could be implemented to help revive the local

economy. It is well known from our experience in past years that a buoyant real estate sector has been associated with a healthy and thriving local economy. With this in mind the Government decided that one measure it could adopt would involve the reduction in stamp duty rates that apply to property transfers. This view was also supported and encouraged by the private sector. It is also true that brisk activity in the real estate sector is often accompanied by brisk activity in the construction industry. Thus this Honourable House will also be asked to consider measures that are designed to have a continued impact upon our local construction industry. These will be brought by the Honourable Minister for Planning.

The proceedings are some of the thought processes that resulted in Government deciding to reduce rates of stamp duty to 5 percent back in November 2001. The reduction in stamp duty rates to 5 percent was approved by this Legislative Assembly for a period of one year and it expired in mid-November. However, Mr. Speaker, the reduction continues by way of administrative arrangement. The Government carried out a survey that involve asking members of the public to complete a simply questionnaire. The purpose of the questionnaire was to determine whether the 5 percent stamp duty rate influenced their decision to transact in properties. The result indicated that the 5 percent rate did have an impact. This result plus the Government's determination to see continued recovery in the local economy means that we have taken the decision to extend the 5 percent rate of duty for a further six months. Mr. Speaker, the Memorandum of Objects and Reasons state that the purpose of the Bill is to extend the 5 percent stamp duty rate for a further six months, empower the governing council to vary the rates of duty by means of regulations, and to repeal the head of duty that relates to timeshare.

Clause 1 of the Bill provides the title of the intended Law. Clause 1 of subsection (2) of the Bill provides that the Law shall come into operation upon expiration of the existing Stamp Duty (Amendment) (Temporary Provisions) Law 2001 which allows for the present 5 percent. The extension of the 5 percent rate is for a period of six months. Upon the expiry of this six months period the Government could extend the rate reduction again or it could let the previous rates of 7.5 percent and 9 percent come back into operation.

Clause 1 (2) (b) therefore states that, upon expiry of the Bill now before this Honourable House the 7.5 percent and 9 percent rates of stamp duty will come back into effect. The current 5 percent rate of duty expired, as I mentioned earlier after the 13 November, but as I also mentioned this rate of duty is continuing by administrative arrangements. It is important to note that clause 1 (2) (a) means that the Law would take effect as of the 14 November.

Clause 2 of the Bill seeks to empower the Governor with the ability to change the rates by means of regulations. This does not circumvent the

Legislative Assembly because as required by clause 2 (2) such regulations are subject to negative resolution of the Legislative Assembly.

The purpose of clause 2 is to give the Governor the ability to react quickly when it is considered that a change in the stamp duty regime would benefit the local economy.

Clause 3 (a) to (c) of the Bill contains the detail provisions of the Bill but these are essentially quite simple to make the rate of duty equal to 5 percent.

Clause 3 (d) repeals the head of the duty that relates to timeshare. This Honourable House is well aware that the timeshare industry and Government agreed that this particular mechanism of collecting revenue from the industry would stifle its growth. Earlier this year the Legislative Assembly approved the charging of a US 10 percent per day for each timeshare unit that is occupied. This was meant to replace or supersede the stamp duty mechanism that applied to the timeshare industry.

Clause 3 (d) is therefore a tidy up provision.

Mr. Speaker, in essence, I have outlined the changes that are being sought through this Bill and accordingly, I commend the Bill to this Honourable House.

The Speaker: Does any other Member wish to speak?

First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you. Mr. Speaker, there is only one question for the Honourable Third Official Member to clear the air about in his winding up. I noticed when I was listening to his explanation of the Bill, which was pretty clear, and the purpose of it; that he spoke to the expiry of the present arrangements being the 13 November and part of the purpose of the Bill that is before us today is to allow for a continuation of that for six months. He said, if I understood him correctly, that the gap which would be created between the 13 November and the passing of this Bill, was being handled administratively. I would love for him to explain how that is being done just to make sure that we understand very clearly how it is being done, and such being the case, I do not think there were any other major problems. Thank you.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

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

The gap recognized by the Government would be an issue because evidently it would mean having to convene a special session of the Legislative Assembly before the expiration, or to use the provisions, which

at this time exists under the Public Management and Finance Law allowing the Government to waive duty or revenue as relevant.

Mr. Speaker, when I mentioned the administrative arrangements this would have been the provision that would have been used in order for the Government to waive that portion in excess of 5 percent. In terms of the validation this is a continuing of the arrangement, so as a consequence, this Bill will give coverage to that gap.

The Speaker: The question is that a Bill shortly entitled, The Stamp Duty (Amendment) Bill 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: The Stamp Duty (Amendment) Bill 2002 given a Second Reading.

The Companies (Amendment) Bill, 2002

The Speaker: The Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of the Companies (Amendment) Bill, 2002, but as I mentioned earlier, the next Bill, which is The Exempted Limited Partnership (Amendment) Bill, 2002 connects with the Companies (Amendment) Bill, 2002. So, although they are listed separately the comments I will be offering on the Companies (Amendment) Bill will also pertain to The Exempted Limited Partnership (Amendment) Bill, 2002.

The Exempted Limited Partnership (Amendment) Bill, 2002.

The Speaker: The Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of The Exempted Limited Partnership (Amendment) Bill, 2002.

The Speaker: The Bills have been duly moved. Does the Mover wish to speak thereto?

Hon. George A. McCarthy: Thank you Mr. Speaker. The Companies (Amendment) Bill, 2002 and The Exempted Limited Partnership (Amendment) Bill, 2002; the primary object of both Bills is to attempt to rest the problem of delinquency in the payment of outstanding penalties by companies that are in the fault of the provisions of The Companies Law 2002 Revision and The Exempted Limited Partnership . . .

Point of Order

Ms. Edna M. Moyle: Mr. Speaker, on a point of order, Sir. I hate to interrupt the Honourable Member, but could I have an explanation as to how we are debating two Bills at the same time—The Companies Bill and The Exempted Limited Partnership (Amendment) Bill?

The Speaker: Honourable Member, I have been reliably informed that there has been precedent that two Bills which have corresponding information have been debated together. In abundance of caution what I would like is if the will of the House would be expressed and we have a vote as to whether both Bills could be debated together, and then I would put the question on them. Otherwise, we can do them separately if the House . . .

Ms. Edna M. Moyle: Mr. Speaker, if I may. I do understand your ruling and what you have been told. I could understand the Companies (Amendment) Bill and the Companies (Amendment) (No. 2) Bill, but I really find it difficult to see two entirely different titled Bills, the Companies and The Exempted Limited Partnership being debated at the same time. I would ask if you would suspend the House and provide us with a precedence that this has been done before.

The Speaker: The Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I can understand the concern of the Honourable Lady Member from North Side, but the specific provisions of the Bills allow for penalties to be applied in respect of late filing, for example, changes of directors. Although the Honourable Member is saying that she could understand this Bill and the Companies (No. 2) Bill, the relevant sections of these Bills are similar, in that, it allows for penalties to be applied by the Registrar General for the late filing of information. I can deal with them separately but since they are so connected I thought that it would not pose a problem. In fact, they will be voted upon separately but the information that I will be offering will be relevant to both of them. I can give the information on one at the same time and then turn around and then give the information on the next Bill because it will be the same information; only that the titles will be different.

The Speaker: Honourable Member, just in the abundance of caution, if we could revert to the moving of the first Bill, the Companies (Amendment) Bill 2002, and take your comments on that and then we will move forward as per the normal.

The Companies (Amendment) Bill, 2002

Hon. George A. McCarthy: Mr. Speaker, as I mentioned, this would have been from the comments I offered earlier. The Companies (Amendment) Bill seeks to achieve the goal by empowering the Regis-

trar – (pause). The Companies Law provides for daily penalties between \$10 and \$25 to be calculated on the failure of a company to make certain filings with the Registrar General. The application of such daily penalties and accrual of the same can and has in a number of cases resulted in very substantial penalties being claimed by the Registrar General. None payment of penalties for failure to comply with the filing requirements cannot be legally enforced, as the Law does not allow for the same which is enforcement. This amendment however, will remedy such defect, but most importantly allow for the Registrar General to impose a flat fee of \$500 when the aggregate per deem penalty has exceeded this sum, provided he or she is satisfied that the failure is not due to willful default. This amendment will also bring penalties under the law more in line with our competitors within the region. None of whom has onerous penalties such as to be found here. The fact that the Registrar will now be vested with the discretion to levy a flat fee in cases where willful default is not determined, and to have legal recourse in pursuing collection of penalties where willful default is determined, is a significant enhancement under the Law.

This amendment has the support of the financial industry and has been arrived at through consultation. If Honourable Members will recall there was an earlier Bill that was submitted to this Honourable House, and this new Bill supercedes that Bill. So, as a consequence what we have is an agreed position. As I mentioned in the case of willful default, the penalties in the Bill, as it now stands, will continue. However, where such is not the case there will be a flat fee of \$500. In Bermuda there is a flat fee of \$250; in Barbados there are no daily charges but it allows for the company to be reinstated at a fee of \$750. So, what is being proposed here, Mr. Speaker, of \$500 is one that can be regarded as the median. Daily rates of penalties do not exist in Delaware, which is a very large center which attracts quite a lot of registration of companies. So, this will encourage the timely filing of changes as made by service providers, and as such where by oversight such as not been done, the service providers will not be unduly penalized.

The Speaker: Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: To thank Members for their tacit support, Mr. Speaker.

The Speaker: The question is that a Bill shortly entitled, The Companies (Amendment) Bill 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: The Companies (Amendment) Bill 2002 given a Second Reading.

The Exempted Limited Partnership (Amendment) Bill, 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of a Bill entitled, The Exempted Limited Partnership (Amendment) Bill 2002.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. George A. McCarthy: Yes, Mr. Speaker, I gather that repetition will be relevant. So, if you will allow . . .

[background laughter]

Hon. George A. McCarthy: Mr. Speaker, The Exempted Limited Partnership (Amendment) Bill provides for daily penalties between \$10 and \$25 to be calculated on the failure of an exempted limited partnership to make certain filings with the Registrar General. The application of such daily penalties at accrual of the same can and has in a number of cases resulted in very substantial penalties being claimed by the Registrar General. None payment of penalties for failure to comply with the filing requirements cannot be legally enforced as the Law does not allow for the same. This amendment, however, will remedy such defect but most importantly allow for the Registrar General to impose a flat fee of \$500 when the aggregate per deem penalty has exceeded this sum provided he or she satisfy that the failure is not due to willful default. This amendment will also bring penalties under the Law, more in line with our competitors within the Region. None of whom has such onerous penalties. The fact that the Registrar General will now be vested with the discretion to levy a flat fee in cases where willful default is not determined, and to have the legal recourse in pursuing collection of penalties where willful default is determined, is a significant enhancement under the Law.

This amendment has the support, as I said earlier, Mr. Speaker, of the financial industry. Therefore, I commend this Bill to Honourable Members. I thank you.

The Speaker: Does any other Member wish to speak? Does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: Just to say thanks to Honourable Members for their tacit support.

The Speaker: The question is that a Bill entitled, The Exempted Limited Partnership (Amendment) Bill 2002

be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: The Exempted Limited Partnership (Amendment) Bill 2002 given a Second Reading.

Suspension of Standing Order 46(4)

to enable the following Bills to be read a second time

Ms. Edna M. Moyle: Mr. Speaker, may I just ask a question if you will allow me? If I have gotten a green printed copy of the Immigration Bill and one of The Health Practice Bill, does that mean that those two Bills have been gazetted? My question is: why are we suspending the Standing Orders 46(4) if they have been gazetted? I am just asking a question. Once you have a green Bill, does that mean that the Bills have been gazetted—a printed green Bill?

(pause)

The Speaker: I would like to thank the Lady Member from North Side for bringing that error to our attention. Since it does not appear to be a need for the suspension of that Standing Order we will move along to The Immigration (Amendment and Validation) Bill, 2002.

The Immigration (Amendment and Validation) Bill, 2002

The Speaker: The Honourable First Official Member.

Hon. Donovan W.F. Ebanks: Thank you, Mr. Speaker. I beg to move the Second Reading of The Immigration (Amendment and Validation) Bill, 2002.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. Donovan W.F. Ebanks: Yes, Mr. Speaker. We are anxiously looking forward to the development and enactment of a new Immigration Law in the New Year. In the meantime it has been necessary to make a number of changes to the existing Law and this Bill unfortunately is another case of that and some minor tweaking in relation to a change that was made earlier this year. The amending part of the Bill looks to essentially provide a legal framework which had not previously existed for the consideration of matters related to individuals seeking asylum. In particular, it introduces a legal recognition of the principles of the 1951 United Nation (UN) Convention on Refugees, which were not formally or legally extended to these Islands. This Bill does not seek to do that either but rather to recognize that Convention as an appropriate basis of consideration of such matters. Indeed, that is the basis that was followed some nine years ago when these Islands had to deal with a matter related

to some 1,200 illegal immigrants seeking asylum from our neighbour to the North.

The amendments specifically look to empower the Chief Immigration Officer to consider applications for asylum. In turn to afford applicants who are unhappy with the decision of the Chief Immigration Officer, the right of appeal to the Immigration Appeals Tribunal established earlier this year, and to also empower Executive Council to develop an issue to promulgate rules for the Tribunal in consideration of such appeals.

It is hoped that with these changes the matter in relation to the three alleged nationals of Afghanistan, which is already in process but has dragged on for much longer than any of us or those three individuals, I venture, would have liked, can be brought to a conclusion.

Mr. Speaker, the validating portion of the Bill essentially seeks to address a situation that arose following the amendment of the Bill earlier this year, to provide for the Immigration Appeals Tribunal. That Tribunal was established on the 6 May when the amending Law was gazetted. At the time in discussions between various players in the service and persons who were to become members of the Tribunal, the decision was taken that the Tribunal would consider appeals lodged following that date when it came into effect. A council would then consider dealing with those appeals, which were in the process prior to the Tribunal coming into effect. I personally advocated that position, Sir. I felt it was fair and reasonable to both players and would avoid the Tribunal itself being initially lumbered down with whatever was pending.

We followed that course through mid September when our Legal Council brought it to our attention that there was no provision in the amending Law, which had been enacted, for Council to continue to consider appeals between May and September; their position was that Council had lost its powers to consider those appeals on the 6 May when the Immigration Tribunal Appeals came into being. Obviously, there were a number of appeals that were considered by Council during that period. The practice of referring to Council stopped in mid-September and this Bill simply seeks to validate those decisions as if Council had the authority to continue to consider appeals over that period.

With those few words I recommend the Bill to the House and seek the support of Members for its passage.

The Speaker: At this time I would like to take the luncheon suspension and return at 2.15 pm.

Proceedings suspended at 12.35 pm

Proceedings resumed at 3.25 pm

The Speaker: Please be seated. Proceedings are resumed.

When we took the suspension the First Official Member had just moved The Immigration (Amendment and Validation) Bill. Does any other Member wish to speak? Does any other Member wish to speak? If no other Member wishes to speak would the First Official Member like to exercise his right of reply?

Hon. Donovan W.F. Ebanks: Thank you, Mr. Speaker. Just to thank Members for their support to allow the Bill to pass. Thanks.

The Speaker: The question is that a Bill shortly entitled, The Immigration (Amendment and Validation) Bill, 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: The Immigration (Amendment and Validation) Bill 2002 given a Second Reading.

The Health Practice Bill, 2002

The Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Mr. Speaker, I beg to move the Second Reading of A Bill for a Law to provide for the Establishment of a Health Commission and a Health Appeals Tribunal to Provide for the Establishment of Councils to regulate Health Practitioners; to Repeal the Health Practitioners Law 1995 Revision and for Incidental and Connected Purposes.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. Gilbert A. McLean: Mr. Speaker, thank you for allowing me this opportunity to present the Health Practice Bill 2002 to this Honourable House.

Members will recall that in September 2001 the then Minister for Health Services, the Honourable Linford Pierson, presented the Draft Health Practitioners Bill, 2001 for wide and open discussions by Members of the Legislative Assembly, health professionals and members of the public. Today I am pleased to be in a position to bring to Members of this Honourable House the results of on going work that started several years ago. The proposed Bill being brought to this House today provides a more flexible and encompassing legal structure. The old law is no longer adequate to regulate the increase in growth and variety of health care services now available in these Islands. The new Law will ensure that the health of the public is protected through more detailed and sophisticated regulation of health professionals and institutions in which health services are provided.

Mr. Speaker, from the beginning of time, humanity has been instructed to protect and preserve that

which is good. This concept is applicable to many areas of life and certainly to medicine; the science or practice of the diagnosis, treatment and prevention of disease. Thankfully, we in the Cayman Islands can boast of a high standard of health care. This is in no small part due to the many quality health practitioners who work among us. It is intended that the Bill now named, The Health Practice Bill, as it pertains to practitioners and health care facilities, will replace the Health Practitioners Law, which was passed in 1974 and revised in 1995. This Bill should to a long way towards achieving the goal of ensuring that the practices, procedures and actions of all health practitioners in the Cayman Islands take place within a framework that upholds the highest professional and ethical standards. As such, there are several provisions of this Bill which are ground breaking for the Cayman Islands; the establishment of a health commission, compulsory insurance of registered practitioners, the establishment of several councils for various professions and the appeal process.

Although existing public and private facilities provide high quality service it is now necessary to establish a formal regulatory system. The current laws of the Cayman Islands do not provide specifically for licensing and inspection of health care facilities. Therefore, this is included in the draft Health Practice Bill.

The Ministry is committed to ensuring that the inspection requirements and procedures will be transparent and will be similar to the tested and established practices in the countries such as the United States of America, Canada and the United Kingdom. They all have joint commissions or services to ensure such standards.

Mr. Speaker, the Health Practice Bill, 2002 seeks to establish a health commission which shall be responsible for, among other things, advising the Minister of Health on policy relating to health practice in the Islands; providing guidance to the councils and monitoring their performance and advising the Director of Planning on applications for the development of health care facilities. The commission shall also be responsible for the certification and inspection of health care facilities. The membership of the commission shall consist of an assignee of the Attorney General and four other members appointed by the Governor in Council.

The Bill also includes provisions for the establishment of a Health Appeals Tribunal to which practitioners and managers of health care facilities can appeal decisions of the Councils or the Health Commission. The Health Appeals Tribunal shall consist of a chairman and two other members; all of whom shall be appointed by and hold office at the pleasure of the Governor in Council. The Chairman of the Appeals Tribunal shall be an attorney-at-law of at least seven years called to the Bar and at least one of the other members of the Appeals Tribunal shall be a registered practitioner. It is hoped that the Appeals Tribunal could sort out various issues without court interven-

tion, which should be a preferable process considering costs among other things. However, the Bill provides for an appeal to be made to the court from a decision of the Appeals Tribunal. While I do not wish to see such cases I would like to see justice done to all parties.

I am aware that health professions have been asking for many years for the establishment of separate councils mainly responsible for regulating the various professions. I am therefore pleased to state that this Bill provides for four separate professional councils namely, the medical and dental council, the nursing council, the pharmacy council, and council for professions allied with medicine. Each of the councils shall consist of five members appointed by the Governor in Council. Of the five members of the medical and dental council, the nursing and midwifery council and the pharmacy council,

- (a) at least three members shall be registered practitioners in the principal list of each of these Councils;
- (b) at least one member of the medical and dental council shall be recommended by the Cayman Islands medical and dental society;
- (c) at least one member of the nursing and midwifery council shall be recommended by the Cayman Islands nurses association;
- (d) at least one member of the pharmacy council shall be recommended by the Cayman Pharmacist Association;
- (e) at least one member of each council shall be a person who is not a registered practitioner.

Of the five members of the Council for professions allied with medicine, at least three shall be registered practitioners in the principal list of the Council specified in Schedule 6 and at least one member shall be a person who is not a registered practitioner.

The Medical and Dental Council shall regulate: Medical Doctors, Dentists, Dental Hygienists, Dental Surgical Assistants, Dental Therapists, Dental Technicians, Osteopaths (trained in the United States), Physician Assistants and Podiatrists.

The Nursing and Midwifery Council shall regulate: Practical Nurses, Public Health Nurses, Registered Nurses, Registered Mental Health Nurses, Midwives, Nurse Anaesthetists, Nurse Practitioners and Clinical Nurse Specialists.

The Pharmacy Council shall regulate: Pharmacists. The Council for professions allied with medicine shall regulate: Acupuncturist, Audiologists, Chiropodists, Chiropractors, Clinical Psychologists, Dieticians, Emergency Medical Technicians, Homeopaths, Medical Herbalists, Medical Laboratory Technicians, including Medical Technologists, Mental Health Counselors, Nutritionists, Occupational Therapists, Opticians, Optometrists, Osteopaths (not trained in the United States), Paramedics, Physiotherapists, Psychotherapists, Radiographers and Respiratory Therapists, Speech Therapists, Substance Abuse Counselors and Therapeutic Massage Practitioners.

The Governor in Council may by order amend any of the Schedules where it considers it necessary to do so. The Governor in Council may therefore, by such order extend the Law to cover other professions or provide that any of the professions specified in the Schedules shall no longer be required to be regulated under the Law.

Mr. Speaker, each of the four Councils will be responsible for ensuring that only properly qualified and experienced health professionals are permitted to provide health care services in the Islands. As well as regulating who can provide health care services, the Councils will be responsible for promoting professional education and ensuring that good professional conduct is maintained. Rights of appeal will exist in respect of decisions taken by the Councils.

After this Bill is passed and the new Councils are established there will be a period of approximately six months in which the Councils will formulate and set criteria for the recognition of qualifications and development of standards, et cetera, acceptable for practice in the Cayman Islands.

In this regard, Mr. Speaker, I am fully expecting that a wider and more relevant set of criteria than those presently applied will come into effect, as it is essential that we in the Cayman Islands keep up to date with modern trends in the provision of health care. Therefore, all applicants for registration will be expected to comply with the criteria set by the relevant Councils. Practitioners who are currently fully registered for practice under the present Law and who meet in full, the requirements for registration in force immediately prior to the enactment of this Bill will be eligible for registration.

Each Council will keep one register for each of the different health care professions for which the Council is responsible, and every register will contain 4 lists. For example, the principal list of the Medical and Dental Councils register will contain the names of the practitioners specified in Schedule 4 who are judged by the Council to be properly qualified and able lawfully to work in the Islands. The visiting practitioners' list of each register will contain the names of the practitioners who visit the Islands for specified periods to supplement the normally available range of health care services.

The two other lists in each register will be the overseas list and the provisional list. The overseas list will contain the names of the practitioners who are judged as being properly qualified and experienced to work in their professions. And who want to do so but cannot work in the Islands or have not chosen at that time to work in the Islands. The provisional list will contain the names of all persons who are registered to complete internships in the Islands.

Mr. Speaker, as noted earlier, the Bill also provides for the certification and inspection of health care facilities by the Health Commission. The Commission may, upon an application being made to it, issue a certificate to any person to operate a health

care facility. While any person may own a health care facility it shall be a condition of each certificate that the professional manager of the health care facility be a registered practitioner from the principal list of a Council.

The duration of a certificate shall be stated in the certificate, and the certificate may be for a fixed period not exceeding 3 years. A certificate issued for a fixed period may be renewed from time to time. If the Commission is satisfied that the applicant continues to meet the requirements for the issue of a certificate the Commission shall renew the certificate.

An inspector appointed by the Governor and provided with an identification card bearing a photograph and indicating that he is an inspector under this Law shall inspect health care facilities. The inspector shall, if requested to do so, produce that identification card for inspection to any person in relation to whom the inspector is about to exercise, is exercising or has exercised the power under this Law. An inspector who intends to inspect any premises in accordance with this section shall, except in cases of emergency give at least seven days notice of his intention to do so to the manager of the premises. An inspector shall be empowered to

- (a) at any reasonable time, enter, inspect and examine any health care facility in order to ensure that the premises are being kept in accordance with the standards set by the Commission relating to physical facilities, equipment, personnel and procedures which standards shall accord with the relevant guidelines or codes in the United Kingdom, Canada or the United States;
- (b) when entering such premises, take with him such equipment and material as is considered necessary for the purpose of inspection and examination;
- (c) make such examination and investigation as may in any circumstances be necessary; and
- (d) requires any person to afford him such facilities and assistance with respect to any matters or things within that person's control, or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on him by clause 16.

If an inspector is of the opinion that the premises which were inspected are in an unsatisfactory condition he shall notify the manager in writing setting out his findings and giving the manager such periods of time as the inspector considers necessary to remedy the situation.

Where the manager fails to comply with the notice given by the inspector within the period of time set out in the notice, the inspector shall make a report to the Commission to that effect and the Commission, or in the case of an emergency, the chairman may, if it or he agrees with the report, serve on the manager of

the premises a notice ("an improvement notice") stating that the Commission is of the opinion, giving particulars of the reason for that opinion, and requiring that person to remedy the situation within such period ending not earlier than the period within which an appeal against the notice can be brought under section 20 as may be specified in the notice.

If as regards any activities carried out on the premises the inspector is of the opinion that as carried on or likely to be carried on by or under the control of the person in question, the activities invoke a risk of serious injury or harm to patients or to users of the premises, the inspector shall report the matter to the Commission or in the case of an emergency to the chairman of the Commission and the Commission or the chairman may if it or he agrees with the report, serve on the manager of the premises a prohibition notice. A prohibition notice shall -

- (a) set out the findings of the inspectors;
- (b) specify the matters which in the opinion of the inspectors and the Commission will give rise to the risk; and
- (c) direct that the activities to which the notice relates shall not be carried on at the premises unless the matters specified in the notice in pursuance of paragraph b have been remedied.

Clause 20 provides for an appeal against an improvement or prohibition notice.

The Bill contains provisions to protect the public from people falsely or fraudulently claiming to be registered health practitioners. It will be an offence to practice as a health practitioner unless properly registered by the appropriate Council. It will also be an offence to obstruct a Council by refusing to give it documents or other information required by the Council to carry out its registration functions under the Law.

The details of the constitution of the Councils; the manner in which they will operate, and the rules governing their supervisory and disciplinary functions over practitioners, are set out in Schedule 3.

Mr. Speaker, I would bring to the attention of Members of this Honourable House and through them, their constituents, that this Draft Bill has been the subject of wide professional and public consultation in the Islands including with members of the current Health Practitioners Board and representatives of the health professions. All feedback received was considered by the Ministry with the able assistance of Dr. Roy Palmer, an overseas consultant with Medico Legal expertise. I would also like to acknowledge the work of the feedback Committee chaired by the Medical Officer of Health and thank all Health Practitioners and others who offered written and verbal input as part of the consultation process.

Mr. Speaker, it is our collective responsibility to protect and preserve the high standard of health care we have grown accustomed to in these Islands. Therefore, I invite Honourable Members to support the passing of this Bill into law, as it is part of the frame-

work for better provision of health care and to bring about changes and necessary improvements in order to keep abreast of modern times. Thank you, Mr. Speaker, and I commend the Bill to Honourable Members.

The Speaker: Does any other Member wish to speak?

The Third Elected Member for the district of Bodden Town.

Mr. Anthony S. Eden: Thank you, Mr. Speaker.

It is with great pleasure that I rise to give support to this piece of legislation from myself and the Opposition Back Bench. This piece of legislation is very timely when we look at the present facilities which houses the Cayman Islands Health Services complex, which people have said is the finest in the Caribbean with world class facilities. This goes a long way in complementing what we have there and I am pleased to know that the two recent Ministers, Mr. Pierson and the present Minister, Second Elected Member from Bodden Town, have piloted and brought this legislation to the House. I must say that Mr. Palmer was appointed as the consultant when I was the Minister there. I take no main credit for this but I must take my hat off to the other two Ministers who have taken this into the public domain and taken at times some abuse. However, it goes to show when we go through the consultative process what the end product can be. I think I know this is something that the Cayman Islands can be proud of. This puts the Cayman Islands on level and on par with any other territory in the world. I am pleased to see that this has come. One of the areas that I am very comfortable with seeing in there is the inspection of health care facilities.

As we all know the prior Health Practitioners Bill was almost thirty years old, and it is unfortunate that it has taken so long to get here but we all know how the enactment of Bills and Laws in the Cayman Islands can be drawn out. As I have always said, nothing happens before its time. Many people in the past had concerns of the provision of health care in some of these facilities. Our Caymanian public can now rest at ease knowing that when they go to a health care facility it is of the highest standard that you can find literally any where in the world.

One of the questions I had, which I briefly mentioned to the Minister, relates to the top of page 18, section 13 (d) and maybe he can comment on it in his winding up or at committee stage. It says: "**in the case of the only holder of the certificate person . . .**". Maybe it is how I am reading it but this can be explained when the Minister comes to this area. The other area that I had a question on was on page 23, 24(2) (b) which refers to the conditions that are applicable when an applicant applies. It says: "**has the necessary knowledge of English;**". I also wonder if this is an understanding and communicating with his patients.

Mr. Speaker, once again this is a very comprehensive and well done piece of legislation and I take my hat off to the present Minister and his predecessor for getting it this far to finally the culmination of a good job in getting this before the Legislative Assembly. We on this Side give our full support. Thank you.

The Speaker: Does any other Member wish to speak. If no other Member wishes to speak, does the Honourable Minister wish to exercise his right of reply?

Hon. Gilbert A. McLean: Mr. Speaker, I thank the Member from the Opposition who spoke on their behalf and for the support stated. I am happy to know that this Bill has made it to the House and that it has the tacit support of other Members of the House as well. I believe its passage will provide legislation that covers quite comprehensively health practice in the Cayman Islands. That does not say that there will be no amendments, and perhaps amendments that will come about very soon. As soon as it goes into effect things have a way of showing certain weakness, or that changes are necessary and it is quite possible that that will happen.

I take note of what the Member who spoke about section 13(d). I think it is a typographic error because I read it as well and it really does not make sense to me and I am glad that he has picked it up. It is something that I will seek a legal view on and have something prepared by committee stage. Also in section 24 (b)—indeed 24 (2) (b) where it states: "**The conditions are that the application is made in the prescribed form and manner and that the applicant (b) has the necessary knowledge of English**". We have a situation and indeed I think the Member who spoke knows that as far as we have—and I dare say that he knew of it in his time, as health Minister as well—persons from Spanish speaking countries whom we understand are very capable doctors. Unfortunately, because of the fact that they do not speak English and they cannot communicate with a patient or vice versa, it creates a serious practical challenge. One of the things thought necessary was to put in a section which stated that a person had to have a certain proficiency in the English language. So, he is quite correct in that regard.

Mr. Speaker, once again I would like to thank Members for their support for this Bill which has been a long time coming. Thank you.

The Speaker: The question is that a Bill shortly entitled, The Health Practice Bill, 2002, be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: The Health Practice Bill 2002 given a Second Reading.

Suspension of Standing Order 46(4)

To enable The Companies (Amendment) (No.2) Bill to be read a second time.

The Speaker: Could I have a motion for the suspension of Standing Order 46(4)?

Hon. Linford A. Pierson: Mr. Speaker, I beg to suspend Standing Order 46(4) to enable the Second Reading of The Companies (Amendment) (No. 2) Bill, 2002.

The Speaker: The question is that Standing Orders 46(4) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Standing Order 46(4) suspended.

The Companies (Amendment) (No. 2) Bill 2002

The Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of The Companies (Amendment) (No. 2) Bill 2002.

The Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

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

The purpose of this amending Bill is to respond to the financial industry's request for upgrades to the provisions of part 14 of The Companies Law relating to Segregated Portfolio Companies, otherwise known as SPCs. The need for many of these upgrades has come to light with the expansion of the SPC form to include entities other than insurance companies.

Mr. Speaker, I will focus on the key changes which are in clauses 3, 4, 6 and 10. The Bills Memorandum of Objects and Reasons of course records all of the amendments including the minor ones proposed for general clarity. Clauses 3 and 4 deals with the conversion provisions. As the Law currently stands companies formed before the 18 March 2002, the date of the amendment that opened the SPC form up to all exempted company types, not just captive insurance, are not able to become SPCs. Therefore, there are no provisions in part 14 dealing with conversions. Initial indications from the industry at the time were that for practical purposes conversions would be quite rare. While this is still the general expectation, industry advice is that conversion provision would make the Cayman Islands SPC form competitive compared with products in other jurisdictions. It would also make it to be of maximum utility.

Clause 3 now enables any exempted company regardless of date of formation to apply to the Registrar to be an SPC. In respect of prospective licensees of the Monetary Authority the clause also

confirms that registration as an SPC does not feather the Monetary Authority's powers to determine whether an SPC is suitable to be a licensee. The position where an existing licensee wishes to convert to an SPC is covered in clause 4 as will be outlined shortly.

Clause 4 contains the necessary conversion provisions now requested by the industry as a new section 233A of the law. It allows an existing exempted company to convert to an SPC provided that—

- (a) the directors file with the Registrar a declaration containing the matters set out in section 233A subsection (1) (a);
- (b) consent of a minimum of 95 percent by value of the company's creditors has been obtained to the conversion in accordance with 233A subsection (1), items (a) (v);
- (c) a special resolution is passed authorizing the transfer of assets and liabilities into segregated portfolios in accordance with section 233A (1) (b); and
- (d) the Monetary Authority has given written consent where the company is a licensee of the authority in accordance with section 233A, (1) (c).

For the avoidance of doubt section 233A, subsection (5) stipulates that the fraudulent disposition Law does not apply to the initial transfer of assets and liabilities into segregated portfolios because this initial re-arrangement would be done at what that Law would consider undervalue and therefore prohibit it.

Note that on the go forward basis, Mr. Speaker, the amendment to section 233, 6 (c) in clause 7 ensures that the fraudulent disposition Law is of application.

Clause 6 deals with directors liability; this clause removes section 237, 2(b) which gives the right of indemnity against a segregated portfolio or general assets to a director who has acted on behalf of a segregated portfolio, unless the director was fraudulent, reckless, negligent or acted in bad faith. Such a provision is counter to commercial practice in the Cayman Islands' financial services market. Further, to allow such an unclear and unnecessary route an indemnity from general assets is at odds with the whole principle of segregation of assets and liabilities. Clause 6 preserves the remainder of section 237 including that directors are personally liable for matters relating to a segregated portfolio and section 237 (3) as in the current Law contains provisions for the court to determine whether a director ought to be relieved of personal liability.

The revised section 237, subsection 4 provides that any indemnity given by the company to a director as it relates to a segregated portfolio shall only be enforceable against the assets of that portfolio.

Clause 10—deals with secure creditors and it amends section 245, subsection (5) by removing part (b) only. Part (b) requires that a secure creditor goes to court to get permission to enforce his security. This

is a commercial liability and goes against the run of Cayman law and negatively affects the ability of Cayman's SPC to get ratings from the international rating agencies, and the ability of secure creditors to realise their security in a timely manner. Where there are obstacles to the matter this renders Cayman's SPC very unattractive particularly, as mutual funds and structured debt vehicles.

Mr. Speaker, I believe that this Bill with the benefit of the private sector input effectively address the matters the Government was requested to look at and I commend this Bill to this Honourable House for passage.

The Speaker: Does any other Member wish to speak? If no other Member wishes to speak would the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: Mr. Speaker, just to say thanks to Honourable Members for their support.

The Speaker: The question is that a Bill shortly entitled, The Companies (Amendment) (No. 2) Bill 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: The Companies (Amendment) (No. 2) Bill 2002 given a Second Reading.

The Speaker: I have been informed that the Minister of Planning has a motion for suspension.

Motions

Suspension of Standing Order 24(5)

Hon. Linford A. Pierson: Thank you, Mr. Speaker. I wish to suspend Standing Order 24(5) to allow me to bring a Government Motion to this Honourable House to amend the Development and Planning Law.

The Speaker: I shall now put the question that Standing Order 24(5) be suspended to allow the Minister to bring a Government Motion to this Honourable House. All those in favour please say Aye. Those against, No.

Ayes.

Agreed: Standing Order 24(5) suspended.

ADJOURNMENT

Hon. Linford A. Pierson: Mr. Speaker, I wish to make a motion to adjourn the House until tomorrow morning, Thursday, 5 December 2002 at 10 am.

The Speaker: The question is that this Honourable House be adjourned until the 5 December at 10 am. I shall put the question. All those in favour please say Aye. Those against, No.

Ayes.

At 4.20 pm the House stood adjourned until Thursday 5 December, 2002 at 10 am.

OFFICIAL HANSARD REPORT
THURSDAY
5 DECEMBER 2002
10.51 AM
Fourth Meeting

[Deputy Speaker in the Chair]

The Deputy Speaker: I will now invite the Third Official Member to grace us with Prayers.

PRAYERS

Hon. George A. McCarthy: Let us pray.

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

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

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

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

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

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

Proceedings resumed at 10.57 am

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

Apologies

The Deputy Speaker: I have received apologies from the Second Official Member who is in court and will be absent from the sitting today.

Announcements

The Deputy Speaker: I have also been asked by the Leader of Government Business to suspend the House at 11.15 am to allow invited Ministers to pray for the delegation attending London for the Constitutional talks and for all other Members.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**Report of the Standing Business Committee
Third Meeting of the 2002 Session of the
Legislative Assembly**

The Deputy Speaker: I call on the Leader of Government Business, the Minister of Tourism, Environment, Development and Commerce.

Hon. W. McKeever Bush: Mr. Speaker, I wish to lay on the Table of this Honourable House a Report of the Standing Business Committee for the Third Meeting of the 2002 Session of the Legislative Assembly.

The Deputy Speaker: Would the Honourable Minister wish to speak thereto?

Hon. W. McKeever Bush: No, Mr. Speaker.

**Report and Recommendation of the Minister Responsible for Lands on the Lease of Crown Land
– Block 14D, Parcel 403 To the Cayman United
Church Corporation**

**Report and Recommendation of the Minister Responsible for Lands on the Lease of Crown Land
– Block 4E, Parcel 50 to Scholars International
Sports Club**

Report and Recommendation of the Minister Responsible for Lands on the Vesting of Crown Lands – Block 1C, Parcels 86, 146 and 215 in the Cayman Turtle Farm (1983) Ltd.

The Deputy Speaker: Honourable Minister of Planning, Communications, Works and Information Tech-

nology, I understand that there were three Reports that you wanted to Table at the same time, so you can proceed with that.

The Deputy Speaker: Honourable Minister for Planning, Communications, Works and Information Technology.

Hon. Linford A. Pierson: Mr. Speaker, I wish to lay on the Table of this Honourable House my Report and Recommendation of the Minister Responsible for Lands on the Lease of Crown Land - Block 14D, Parcel 403 to the Cayman United Church Corporation; Report and Recommendation of the Minister Responsible for Lands on the Lease of Crown Land - Block 4E, Parcel 50 to Scholars International Sports Club; and Report and Recommendation of the Minister Responsible for Lands on the Vesting of Crown Lands - Block 1C, Parcels 86, 146 and 215 in the Cayman Turtle Farm (1983) Ltd.

The Deputy Speaker: So ordered. Would the Honourable Minister wish to speak thereto?

Hon. Linford A. Pierson: Thank you, Mr. Speaker.

I confirm that as is required by the Law, the details of the three land matters have been published in the Cayman Islands Gazette Issue No. 23/02 dated 18th November 2002 in a local newspaper, namely the *Caymanian Compass*.

Also as required by the Law three valuations have been carried out on each Crown property. Each valuation report forms part of the overall Report and provides a general indication of the value of the properties that Government now proposes to lease or vest.

Mr. Speaker, one Report deals with the lease of Block 14D, Parcel 403 to the Cayman United Church Corporation, also known as the United Church in Jamaica and the Cayman Islands. This property was formerly home to the First Baptist Church when it was located on Smith Road. Government purchased the property from the First Baptist Church several years ago and then leased it to the Cayman United Church Corporation. It now houses the infant section of the Cayman Prep School.

Since occupying the property the Cayman United Church Corporation has made substantial investments and improvements. However, Mr. Speaker, future improvement plans require the security of a long-term lease so an extension of the lease was requested from Government. Executive Council in turn approved a 25-year lease with an option to renew for a further 25 years at a rental rate of CI\$2,000 per month.

Mr. Speaker, the second Report that I have laid deals with the Ed Bush playing field in West Bay, or a particular Crown property which is located near to the

Ed Bush Playing Field in West Bay. In addition to being used by the club's football teams, Scholars propose to use the clubhouse to host camps and an after-school program and house visiting football teams.

It is proposed that Block 4E, Parcel 50 be leased to Scholars International Football Club for a term of 15 years with an option to renew for a further 15 years at a peppercorn rent.

Mr. Speaker, the third Report that was tabled is to facilitate the vesting of three Crown properties in the Cayman Turtle Farm (1983) Ltd. It is common knowledge that the Turtle Farm facility suffered extensive damage from Hurricane Michelle last year. As part of the rebuilding strategy the Board of Directors decided to relocate the majority of the Farm's operations to farm-owned property on the east side of North West Point Road.

The relocation of operations is a key component of the plans to further develop the facility as a world-class aqua-culture facility and diverse tourist attraction. However, such plans will also require additional land and space. To this end, the Executive Council has approved three Crown properties which adjoin existing Farm property should be vested in the Turtle Farm. Those three Crown properties are Block 1C, Parcels 86, 146 and 215 and they are to be vested for a nil consideration.

I thank you, Mr. Speaker.

The Deputy Speaker: It appears that it is now a more appropriate time to have the Prayer as I mentioned earlier, so I will now suspend for 15 minutes to allow for that.

Proceedings suspended at 11.06 am

Proceedings resumed at 11.41 am

[Madam Speaker in the Chair]

The Speaker: Please be seated. Proceedings are resumed.

Executive Summary – Study on the Provision of Construction Aggregate and Fill for the Cayman Islands

The Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Thank you very much, Madam Speaker. I rise to lay on the Table of this Honourable House the Executive Summary and final Report of the Aggregate and Fill study carried out on behalf of the Government by the Consulting Firm CH2M Hill.

This document, as you can see, Madam Speaker, is very large and the only one we have thus far, although I am hoping that others will be provided.

Certainly, we have an Executive Summary which will be provided, as well as the CD Rom which has been given to every Member of the House.

This study on the Provision of Construction Aggregate and Fill for the Cayman Islands was given to the Government in September without an Executive Summary. This Executive Summary was provided in October. So, Madam Speaker, I beg to lay both on the Table of this Honourable House.

The Speaker: So ordered.

Hon. W. McKeeva Bush: Madam Speaker, as I said, that is the only copy of the complete study that we have thus far. It is the Ministry's copy but I hope that others will be provided.

The Speaker: Would you wish to speak thereafter?

Hon. W. McKeeva Bush: Thank you very much, Madam Speaker.

Having an adequate supply of aggregate and fill to meet future demands is important to all Caymanians and visitors to the Islands. These types of materials are needed to allow continued improvements to roadways, schools, medical facilities and housing. Through such improvements the quality of the Cayman Islands can continue to improve.

Improvements to the Islands' infrastructure, however, must be made with an eye toward prevention of unacceptable levels of environmental impacts that could be caused by inadequately regulated excavation of marl, sand and rock from upland or marine environments. If such impacts occurred unchecked, the cumulative impact of such activities conducted in the name of progress could cause irreparable harm to the natural systems that define the biological integrity of the Cayman Islands.

Environmental degradation of coral reefs, sea grass, meadows or mangrove wetlands of the three Islands, for example, could over time reduce their collective allure that draws tourists to the Islands and fuels the Caymanian economy. Any reduction in tourism will translate to loss of economic prosperity for all Caymanians. Any long-term reduction will worsen our position.

Acquisition of aggregate and fill in a cost effective yet environmentally responsible manner will affect all residents, as well as visitors of the Cayman Islands through its influence on the economy and overall quality of life.

The scope of the study included the following six basic elements. Stakeholder meetings were held where quarry and dredge operators, Government Agencies and developers were apprised of the goals of the study, contacted for their input and briefed on the study's recommendations. The process was made as open and public as practical including posting the Reports on our website.

A review of procedural guidelines for mining and dredging project review and approval

The application process, review of proposals, licensing, monitoring and enforcement were reviewed with recommendations made to improve the present system. Stakeholders were interviewed to offer complaints and opinions on this section.

Recommendations to the Central Planning Authority, the Executive Council and Government agencies involved in aggregate licenses were separated into phases of implementation that is immediate, short-term and long-term.

Projection of aggregate and fill demands 2020

In order to form recommendations for aggregate supply it was first necessary to quantify how much aggregate would be needed for future development.

The demand for aggregate was linked to population and tourism growth and to specific project proposals such as roads, major developments and past constructions trends. Estimates were made for 2000 to 2010 and for 2010 until 2020.

An assessment of mining and dredging environmental effects

This section details local impacts of dredging and quarries, as well as potential impacts based on documented international experiences with similar activities.

An estimation of local aggregate and fill supplies available

Quantification of supplies at licensed quarries was documented to assess the time remaining before new sources of aggregate are needed. This section also looked at potential supply sites both inland and dredging in the North Sound. Obviously, the supply of aggregate is enormous if quarries were permitted in any location. However, the results would not be satisfactory as the Islands become a series of holes and burrow pits. Therefore this section establishes a type of screening process to differentiate suitable sites from those with unacceptable impacts.

The development of long-range aggregate and fill management plans

This section, Madam Speaker, contains the recommendations based on previous elements of the study for obtaining economically feasible aggregate while reducing environmental loss. In addition, recommendations are made regarding the restoration of North Sound burrow pits and inland quarry sites.

Consideration is given to the issue of aggregate importation and inland excavation deeper than the currently permitted depths.

Madam Speaker, this is a very thorough study. It is Government's intention to utilize the recommendations made in the Report to inform policy development on all issues relating to aggregate and fill.

This will include development of a policy and the approval of new quarries and excavations, which will be handed on to the Central Planning Authority for implementation.

As I said, CD ROMs with the full Report have been circulated to Honourable Members and the full Report is also available on the Government's website. So it will be available to Members of the House and to any Member of the public that can reach the website.

Madam Speaker, I commend this Report to this Honourable House.

The Speaker: Before calling on the Second Elected Member for George Town, the Chair would wish to commend those who had the vision of bringing such a huge documentation on CD ROM and would, in fact, encourage other Ministries and Departments to do likewise against the background of the limited space that the Parliament has for such storage.

I would now call on the Leader of Government Business to move Standing Order 23(7) and (8) to allow question to commence and indeed continue beyond the hour of 11.00 am.

Suspension of Standing Order 23(7) and (8)

Hon. W. McKeeva Bush: Madam Speaker, I beg to move that Standing Order 23 (7) and (8) be suspended in order for questions to be taken after 11.00 am.

The Speaker: The question is that Standing Order 23 (7) and (8) be duly suspended to allow question time to commence and continue beyond 11.00 am.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended in order for Question Time to continue beyond 11.00 am.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE GOVERNMENT

Question No. 86

The Speaker: Question No. 86. The Second Elected Member for West Bay.

No. 86: Mr. Rolston Anglin asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs -

(a) How many foreign nationals have been charged with a criminal offence in the past 24 months (broken down by nationality);

(b) How many of these work permits have been revoked, resulting in deportation;

(c) Where a deportation order was not issued, please state the reason why.

The Speaker: The Honourable First Official Member. As an aside, we wish to welcome you back.

Hon. James M. Ryan: Thank you, Madam Speaker, and thank you for the welcome.

(A) The Judicial Department does not maintain a record of the nationalities of persons convicted, however, information researched by the Immigration Department indicates that approximately 155 foreign nationals have been charged and convicted of a criminal offence in the past 24 months. A breakdown of the nationality of these persons is as follows:-

Nationality	Number of Persons
Jamaicans	88
Americans	35
Canadians	7
British Citizens	6
Hondurans	5
Germans	3
Australians	2
Italians	2
Colombians	1
Dominicans	1
Irish	1
Lebanese	1
Dutch	1
Swedes	1
Trinidadians	1
Total	155

(B) There is no statutory provision that prescribes that a criminal conviction initiates or requires revocation of a work permit. Revocation is at the discretion of the immigration board. Similarly, there is no statutory provision that prescribes that a revocation of a work permit initiates or requires deportation. The research of the Immigration Department has indicated that a total of four work permits were revoked because of criminal convictions and these persons are prohibited immigrants of the Cayman Islands.

(C) A deportation order is not normally issued when the conviction results in a sentence of less than 12 months. These persons would however be automatically declared prohibited immigrants upon their departure from the Cayman Islands. Their departure, after serving the sentence, is facilitated by the Immigration Department.

Supplementaries

The Speaker: Are there any supplementaries? The Second Elected Member for West Bay.

Mr. Rolston Anglin: Thank you, Madam Speaker.

I wish to ask the Honourable First Official Member, in the substantive answer, in regards to part (B), it says that research has shown that four work permits were revoked. Can the Honourable Member say whether or not it is just four of the 155 that were revoked?

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Thank you, Madam Speaker.

Yes, that is my understanding but I did preface my answer by saying that the Courts do not keep a record of this and the information that I have has had to be researched by the Immigration Department and the Immigration Department does get some information from the courts. This is as accurate as we can possibly obtain it since the Judicial Department does not have actual records on foreign nationals convicted by nationality.

The Speaker: Second Elected Member for West Bay.

Mr. Rolston Anglin: Thank you, Madam Speaker.

Could the Honourable First Official Member say whether or not there is an intention for the Immigration Department to try to come to some arrangement with the Judiciary to obtain this information as a matter of practice?

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Thank you, Madam Speaker.

The difficulty is that the courts do not record this information and the Immigration Department has gone through records that they have received to try and sort this out. However, in the absence of having this actually recorded in the Judiciary it is almost impossible to guarantee getting that information.

The Speaker: The Second Elected Member for West Bay.

Mr. Rolston Anglin: Thank you, Madam Speaker.

I think the Honourable First Official Member added strength to the question that I just asked. I was not asking whether or not they currently can because I understand that they currently cannot. I was trying to find out whether or not if there was any intention on the Immigration Department to actually ask the Judiciary to do something that I think would be rather simple and that is when a conviction against someone who is non-Caymanian is levied that they simply inform the Immigration Department because I see this as something that the Immigration Department could and potentially should ask of the Judiciary.

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Madam Speaker, we will certainly be prepared to request this information but what is submitted now to the Immigration Department by the court is a list of all convictions for both Caymanians and non-Caymanians. It does not give any nationalities on it and this is where the problem arises. I thank the Member for his comments and his question, and I will instruct that this information be requested and we will certainly do our best. It will certainly make things much easier for the Immigration Department.

The Speaker: The Elected Member for North Side.

Ms. Edna M. Moyle: Thank you, Madam Speaker.

Through you the Honourable First Official Member in his answer in (C) has said; **“A deportation order is not normally issued when the conviction results in a sentence of less than 12 months. These persons would however be automatically declared prohibited immigrants upon their departure from the Cayman Islands . . . after serving the sentence . . .”** My question to the Honourable Member: how is the Immigration Department aware of these persons whereby they can then become prohibited immigrants after their departure if it is less than 12 months?

The Speaker: Lady Member for North Side, would you care to just repeat that question for the Honourable Member?

Ms. Edna M. Moyle: Thank you, Madam Speaker. Section (C) of the Honourable Member's answer to the question says; **“A deportation order is not normally issued when the conviction results in a sentence of less than 12 months. These persons would however be automatically declared prohibited immigrants upon their departure from the Cayman Islands . . . after serving the sentence . . .”** I am asking how does the Immigration Department become aware of who these persons are in order to

have them declared prohibited immigrants if there is no checking between the Judicial and the Immigration Departments.

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Thank you, Madam Speaker.

When a foreign national is convicted and a custodial sentence is handed down, Northward Prison supplies the Immigration Department with a list of those persons. The Court also supplies the Immigration Department with a list of persons; it is just that we do not have the nationalities shown. Immigration will monitor those cases and on departure they are immediately put on the stop list and then they would be declared prohibited immigrants.

The Speaker: Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I wonder if the First Official Member could tell us how a deportation order is initiated in the courts. What process does it go through to get to a deportation order?

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Thank you, Madam Speaker. Whenever there is a situation where a person is sentenced to a period of time that would normally make them a deportable person, the judge forwards to the Chief Secretary's office the necessary recommendation on deportation and it then goes to Executive Council. In instances where a deportation order is not necessarily recommended by the judge dealing with the case, the Immigration Department having the list will then start the ball rolling and the case will go to Executive Council for deportation.

The Speaker: The Elected Member for East End.

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

I recall sometime ago there was a case where it is my understanding the lawyer from the Legal Department prosecuting the case should have made the application for a deportation order. Can the First Official Member tell us what part the prosecutors play in the application for a deportation order, or is he saying that it is on recommendation of the judge only?

The Speaker: This is stretching beyond the original question, but if the Honourable First Official Member wishes to respond, he may.

Hon. James M. Ryan: Thank you, Madam Speaker.

The prosecutor may make a recommendation for deportation when he or she is prosecuting the case, but it is left to the magistrate or judge dealing

with the case to order it if he or she deems it appropriate. So the final word in the Judiciary would be with the judge hearing the case.

The Speaker: Are there any further supplementaries?

The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I guess this question will hinge more on the one that the Second Elected Member for West Bay asked. I wonder if the First Official Member could tell us if the Immigration Department is informed prior to these nationals being prosecuted in court, and would that not be the time that the Immigration Department should be involved.

The Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Thank you, Madam Speaker.

There is an arrangement between Immigration, Police and Customs that if Police or Customs should arrest a foreign national they immediately advise Immigration Department so Immigration Officers will start monitoring the case at that stage. The Member is right, it is before the case actually goes to court the Immigration Department monitors it.

The Speaker: The Second Elected Member for West Bay.

Mr. Rolston Anglin: Thank you, Madam Speaker. In response to the earlier supplementary from the Lady Member for North Side, the Honourable First Official Member outlined the process in regards to custodial sentences. What about non-custodial findings by the court that are less than twelve months? Is that a part of this whole equation that has presented a problem to the Immigration Department in terms of the courts not supplying information?

The Speaker: The Honourable First Official Member. I will allow one more supplementary after the one that has just gone.

Hon. James M. Ryan: Thank you, Madam Speaker. The Courts do supply information on all convictions for foreign nationals; I mentioned in the substantive answer that it is difficult with the breakdown by nationalities because it does not show the nationalities of the foreign nationals. The Courts do supply information on all convictions.

The Speaker: Are there any further supplementaries? If not, we will move on to Question No. 87. The Elected Member for East End.

Question No. 87

No. 87: Mr. V. Arden McLean asked the Honourable Minister responsible for the Ministry of Health Services, District Administration and Agriculture what process is being used to determine the reduction in staff of the Health Services?

The Speaker: The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: The process used to determine the reduction in staff is based upon benchmarking staff levels to the current volumes of patients and adjusting service levels where possible so as to reduce the payroll by about C\$4 million with the least impact possible upon the quality of services offered.

The Speaker: The Elected Member for East End.

Supplementaries

Mr. V. Arden McLean: Thank you, Madam Speaker. I wonder if the Minister can tell us where the benchmarking takes place. With which countries are we benchmarking?

The Speaker: The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: Madam Speaker, the benchmarking has been done largely on reference to ratios used in the UK, Canada and the United States, which are the three countries we recruit professionals from.

The Speaker: Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Can the Minister tell us if any consideration has been given with regards to benchmarking with the Caribbean Region?

The Speaker: The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: Madam Speaker, reference has also been made largely within the region to Jamaica from where we have recruited a number of nursing staff particularly.

The Speaker: Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I wonder if the Minister could then tell us what those ratios are and how do they compare with our objective here.

The Speaker: The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: Madam Speaker, the ratio as we have at this time is broadly five patients to one nurse in that the benchmarking is largely done on the basis of nursing staff to patient, which is consistent generally with the areas mentioned before.

The Speaker: Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I wonder if the Minister could tell us if that is across the wards, that is surgical, medical and critical. Do all wards have the same ratio of five-to-one?

The Speaker: The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: Madam Speaker, it is broadly one-to-five in the medical and surgical wards. In intensive care (ICU) it is normally one-to-one for ventilated patients and one-to-two for non-ventilated patients.

The Speaker: Are there any further supplementaries?

The Elected Member for East End. I will allow one more after this one.

Mr. V. Arden McLean: Thank you, Madam Speaker. Can the Minister tell us if he has yet reached that objective?

The Speaker: The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: Madam Speaker, I am advised that we have not reached that level as yet. We are more like one-to-four at this time. We have not yet reached the level of one-to-five.

The Speaker: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Can the Minister then tell us what we were prior to the commencement of that program?

The Speaker: The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: Madam Speaker, prior to the attempts at restructuring and redundancies, it was on average one-to-three, particularly in instances related to paediatrics.

The Speaker: Moving on to the next question.

Question No. 88

The Speaker: Question No. 88. The Second Elected Member for George Town.

No. 88: Mr. Alden M. McLaughlin, Jr. asked the Honourable Minister responsible for the Ministry for Health Services, District Administration and Agriculture in the event that Radio Cayman, which is owned by the Cayman Islands Government, is sued by a Minister of Government –

(a) will the Attorney-General represent Radio Cayman in those proceedings; and

(b) will Executive Council decide whether to defend the action or settle the claim.

The Speaker: The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: Madam Speaker, for this question I have taken advice from the Legal Department, and I am advised that I should write to the Honourable Speaker of the House pointing out that in addition to the fact that the question is directed to the wrong Portfolio/Ministry (a legal issue), in its current form it is in contravention of the Legislative Assembly Standing Orders 1997 (Revision), in particular Standing Order 22(1)(g), which states that “**a question shall not solicit expression of opinion or the solution of an abstract legal question or be hypothetical.**”

There is no pending legal action by a Minister against Radio Cayman. Accordingly, any answer given to such a question is at least an opinion/assumption and at best hypothetical (mere conjecture). Accordingly, the Speaker should ask to bring this to the attention of the Member asking the question.

Madam Speaker, I have asked that the staff pass this information on via the Legislative Assembly, which I assume was done, and it also has been passed to the Portfolio of Legal Affairs, if they would undertake to answer it. I really cannot say what has happened other than that.

The Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. Do I then understand the Honourable Minister to say that Radio Cayman has received no letter before action threatening the bringing of legal proceedings by an Honourable Minister of Government?

The Speaker: The Honourable Minister responsible for Health.

Hon. Gilbert A. McLean: Madam Speaker, I cannot say that the radio station may not have received such

a letter, but I am advised that there is no action in the court system being taken against the radio station.

Speaker's Ruling

The Speaker: Second Elected Member for George Town, in light of the response that there is no action, it would in my respectful opinion put it within the ambit of the section which, I should add for the record, was indicated at that time.

The Speaker took the position of not removing it as a question because there was no way of knowing whether or not it was a pending issue before the Court, or otherwise. Now that the House has been informed of that position, would you wish to withdraw the question or make comment?

Mr. Alden M. McLaughlin, Jr.: No, Madam Speaker, I am quite happy with the answer to the question and I am not attempting to chase the Minister down any of the roads which he does not want to go. I simply wish to ask him who is advising Radio Cayman or the Ministry in relation to this letter of action which, it appears, that Radio Cayman may have received. Is it the Honourable Attorney General or is it somebody else?

The Speaker: Honourable Second Elected Member for George Town, the only difficulty with that is that if there is no substantive question, I do not know where I would get the jurisdiction of the House for supplementaries to follow, albeit I feel it is an important question. That is the difficulty that I find myself in.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I certainly do not want to get into an argument with you about this but there is, with respect, a substantive question. It was on the Order Paper, approved by the Speaker, it has been asked and the Honourable Minister has responded to it.

The Speaker: I take that point, Honourable Member, and the feeling is mutual as to engaging in any type of protracted exchange.

The question, as I explained, was allowed at the time that it came to my Office; it was brought to your attention following the advice received from the Honourable Minister for Health via the Legal Department. Until it was just confirmed that there was no action, then it was brought into the area of speculative which brings it within Standing Order 22(1)(g); hence the reason I had asked whether or not you wished to withdraw the question because it would then be in contravention of that section. That is the only thing that I wish to draw to your attention, Sir.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker, I hear what you said. The question which I last posed to the Honourable Minister arose from his

response and not from the substantive question. His response to me indicated that Radio Cayman and/or the Ministry may have received a letter before action, and my question to him was, simply, who was advising the Ministry or Radio Cayman in relation to that threat of legal proceedings.

The Speaker: Honourable Member, I understand that and there is no problem bringing that as a substantive question. My only point is that as it is now established that it would be in contravention based upon the fact, according to the Honourable Minister, there is nothing pending, then the question would have to be withdrawn on that basis and there would be no question on the Order Paper for supplementaries to arise therefrom – that being the technical difficulty.

Hence I would seek for you to withdraw the question and at the appropriate time you may bring a substantive, or if the Member having heard your question wishes at another stage of today's sitting to respond, then I would allow it.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I certainly do not understand how I can withdraw the question after it has been asked and responded to. I am not going to push this any further, but I cannot see how I can possibly be asked to withdraw the question and I respectfully decline your invitation to do so.

The Speaker: Can the House suspend for five minutes?

Proceedings suspended at 12.23 pm

Proceedings resumed at 12.25 pm

The Speaker's Ruling

The Speaker: Please be seated.

Before we took the short break, we were discussing the issue of the question which was asked by the Second Elected Member for George Town to the Honourable Minister of Health. The decision of the Chair is that the question does fall within Standing Order 22(1)(g) which says "**a question shall not solicit expression of opinion or the solution of an abstract legal question or be hypothetical.**" In light of that I will ask the Clerk to move to the next item on the Order Paper unless the Honourable Minister of Health wishes to make a brief comment.

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

Just to refer to the last question posed by the Second Elected Member for George Town, which to me is generic and straightforward information. The Ministry would be obliged whenever it is a question of

taking legal advice to refer matters that have legal bearing to the Office of the Attorney General, and he in turn to whomever else that he may pass that on to.

The Speaker: Thank you, Honourable Minister. Madam Clerk.

STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF THE GOVERNMENT

The Speaker: The Honourable Leader of Government Business.

Strategic Policy Statement

Hon. W. McKeever Bush: Madam Speaker, I rise to speak to the Strategic Policy Statement that I will table.

The Speaker: So ordered.

Hon. W. McKeever Bush: Madam Speaker, in July of this year the Honourable Financial Secretary tabled the first ever Strategic Policy Statement for the 2003 half Budget. This was a major milestone for the Government and is indicative of our support to financial reform and our commitment to being a fiscally responsible Government.

I believe, Madam Speaker, it is helpful to give an overview of the half-year Budget. The 2003 half-year Budget, which was passed on Wednesday, 27 November, was a unique Budget in many ways. It was passed in record time without any numbers being changed. This is a testimony that the Budget was based on a coherent set of sound policies and provided for an excellent fiscal position.

As everyone present is aware, Government has taken a decision to change the financial year-end from 31 December to 30 June. In addition, the Government has now adopted a new governing piece of financial legislation, which is called the Public Management and Finance Law.

The culmination of these changes will result in a half-year budget for the six months ending 30 June 2001. This will be followed by a full-year's budget for the period 1 July 2003 to 30 June 2004. In addition, the way the information has been set out in the Budget has also been given a different format from the way information has been previously presented. Key changes as at the Budget will now contain an operating statement similar to the normal income and expenditure statement that is commonly used by private sector entities together with a cash-style balance sheet.

A key theme of the Budget was supporting the economy by improving Government performance, in particular, making Government more efficient through

improved budgeting, personal management and strategic planning processes. The Budget also included a number of key new initiatives designed to support economic growth including increased tourism promotion encouraging inward investment and support for small businesses.

The Budget was prepared in accordance with five key fiscal strategies:

1. **No new revenue measures.** The Budget does not require or assume any new revenue measures but does allow for increases in revenue as a result of changes in the economic activity.

2. **Constraining expenditure growth.** Aggregate operating expenditure for the half-year is less than that budgeted for the first half of 2002 and less than the amount actually spent in the first half of 2001.

3. **Funding capital expenditure out of operating surpluses.** This has been achieved and required capital expenditure to be kept low.

4. **No new borrowing.** The Budget includes no new borrowing and makes provision for the repayment of \$4.6 million of existing public debt. The projected debt to revenue ratio is projected to be 4.8 per cent. The allowable ratio under the Law is 10 per cent.

5. **Increased cash reserves.**

The total cash balances of the Government as at 30 June 2003 are projected to be \$60.5 million, this includes \$28.2 million restricted cash held in reserves and funds which is comprised of the Environmental Protection Fund at \$11.4 million, the Capital Development Fund at \$3.2 million, the Infrastructure Development Fund at \$2.5 million, the General Reserve at \$7.2 million and Other Reserves \$3.9 million. The forecast general unrestricted cash balance is \$32.3 million. The total cash balance equates to 78 days of operating expenditure at 2003 budgeted levels. Restricted cash funds and reserves relate to amounts that cannot be used for normal day-to-day expenditures of the Government.

The Budget forecasts and operating surplus of \$43 million is then used to fund capital expenditure, equity injections and borrowing repayments on other balance sheet activity of approximately \$21 million, resulting in an overall surplus for the 6-month period of just over \$22 million.

The size of this half-year surplus, Madam Speaker, is no accident. It has been deliberately budgeted for and will be retained so that it can be used to fund Government expenditure in the first half of the 2003/2004 financial year when, traditionally, expenditure exceeds revenue. That is an overview of the first 2003 half-year Budget.

Madam Speaker, the purpose of a Strategic Policy Statement is to outline the Government's strategic policy priorities for the next financial year which, in this case is 2003/2004. It is my privilege to table that document as Leader of Government Business. The

preparation and presentation of a Strategic Policy Statement is a requirement of the Public Management and Finance Law 2001. It should be tabled no later than the first of December each year. The slight delay this year, Madam Speaker, and Honourable Members, is because of the overlap with the 2003 half-year Budget.

The objective of the Strategic Policy Statement is to contribute to an improvement in the Government's financial management by providing a greater strategic focus for budgetary decision-making. It does this by establishing in a three-year, medium-term context the policy, economic and financial parameters under which the 2003/2004 Budget will be based.

To achieve these objectives, the statement is deliberately strategic and high level in nature. The timing of it is a number of months before the detailed Budget for the 2003/2004 financial year which will be brought to this House so that the Strategic Policy Statement can guide the preparation of the detailed Budget. The planned date for Budget Day is 22 May 2003, God willing. The 2003/2004 financial year, Madam Speaker, the Strategic Policy Statement is in the same format as the previous one; however, it covers a full year ending 30 June 2004 and is comprised of six sections.

I would like to briefly speak about the content of the main sections. An overview of section two:

Outcome goals

Madam Speaker, the eleven overarching broad outcome goals are an expansion of the seven in the previous budget and provide a more comprehensive reflection of Vision 2008. My Ministry in conjunction with the Portfolio of Internal and External Affairs has recast the Vision document to enable it to be used as the strategic front end of the Budget.

The Government's resources are limited, so we are unable to tackle all things at once. We therefore have to choose our outcome goals carefully, prioritising on the basis of the best economic and social gain that can be achieved for the resources used. The Government realises that while it can play a major part in achieving these broad outcome goals, in the final analysis it does not totally control them.

Events outside the Cayman Islands can also have a significant influence on the whether the outcomes are achieved. The Government has established some key policy initiatives it intends to pursue in 2003/2004 to help achieve outcomes. These key initiatives are particularly designed to promote economic growth, improve the standard of education of our young people and improve the efficiency of Government. Some improvements the Government proposes are to:

- Revise the Immigration Law, establish a Securities Commission and a new securities regulatory regime after interaction and consultation with the private sector.
- Negotiate tax information exchange agreements, again, in consultation with the private sector.
- Increase the level of marketing of the financial services.
- Develop nature tourism on Cayman Brac and Little Cayman.
- Continue the red carpet reform.
- Continue the deregulation of the telecommunication sector.
- Develop a new port facility at East End.
- Expand the school curriculum to cover information technology in the form of the Improving Teaching And Learning in the Cayman Islands (ITALIC) project.
- Build a new primary school and secondary school using a private finance initiative.
- Create statutory authorities for shipping, tourism and Radio Cayman.
- Begin the implementation of Government Personnel and machinery of Government reforms.
- Establish a web based General Registry.
- Construction of the new Government Administration Building using a private finance initiative.
- Continuation of the program for affordable housing.
- Review the process and facilities for juvenile detention
- Continue to find ways and means to protect the natural environment.

An overview of section three:

The Economy

Madam Speaker, global economic growth slowed from 4.7 per cent in 2000 to 2.2 per cent in 2001; however, economic activity has improved in 2002.

The International Monetary Fund projects a growth rate of 2.8 per cent for the world economy in 2002. The United States economy came under considerable pressure in 2001 with growth falling to 0.3 per cent from 3.8 per cent the previous year. The current projection is for a modest recovery of 2.2 per cent in 2002 and 2.6 per cent 2003.

Turning to the Cayman Islands economy, based on the anticipated recovery in the United States, growth in the Cayman Islands is expected to increase from an estimated 1.7 per cent in 2002 to 2.3 per cent in 2003.

Inflation is forecasted at a modest 2.5 per cent in 2003. The slight increase over 2002 is expected as global economic conditions continue to strengthen. The forecast assumes that there are no significant

domestic revenue measures that would impact inflation.

Unemployment is expected to decline slightly from 5.7 per cent in 2002 to 5.5 per cent in 2003 largely on account of the anticipated improvement in economic conditions.

An overview of section four:

Aggregate Financial Targets

Section four of the Strategic Policy Statement provides aggregate financial targets for each of the next three financial years. Before I move on to these targets, I would like to draw Members' attention to Table 3 and 4 on pages 13 and 14 respectively of the Strategic Policy Statement. The figures are different to those stated in the 2003 half-year annual plan and estimates recently approved by Finance Committee. The reason for this is that we have been advised to delay the bond issue until early 2003. This, Madam Speaker, will save the Government over \$1 million in interest costs over the life of the bond.

Prior to this advice being received, the impact of the bond issue was shown in the figures for 2002. As a result of accepting the advice, the effect of the bond issue will now impact the 2003 half-year figures. This change will increase the overall surplus for 2003 half-year from \$22.4 million to \$37.64 million. There will be a corresponding reduction in the overall surplus for 2002. The forecast closing cash balance for 2003 half-year will be unaffected, remaining at \$60.555 million. For the 2003/2004 financial year the targets are as follows:

Operating revenue	\$317.12 million
Operating expenditure	\$293.58 million
Operating surplus	\$23.54 million
Net asset and borrowing activity	\$22.75 million
Overall operating surplus	\$0.79 million
Capital development target	\$8 million
Capital acquisition target	\$2.6 million

Overall surplus targets for the next two full financial years, namely 2004/2005 and 2005/2006, are \$0.079 million and \$0.057 million respectively.

The Speaker: Order.

Hon. W. McKeever Bush: Madam Speaker, the Opposition is inquiring. The truth is they should have debated the Budget and they could have paid more attention to what was happening even when we said so before.

The aggregate financial targets are based on the following financial strategy.

1. Operating surplus sufficient to cover all balance sheet activity that relates to current activity.

2. Revenue to increase inline with economic growth, no new measures but to implement those measures previously announced.

3. Continue tight control over aggregate operating expenditure by limiting the rate of growth in operating expenditure.

4. Fund any new initiatives by reprioritising existing expenditure.

5. Fund equity investments, capital acquisitions, loans made and borrowing repayments from operating surplus.

6. Restrict capital development expenditure to essential projects with long-term benefits.

7. Ensure aggregate borrowing levels are within the 10 per cent debt-servicing ratio.

8. Reduce the overall amount of public debt. This has been achieved by ensuring that the level of new borrowings is less than the borrowing repayments.

9. Maintain reserves at existing levels and allocate any unforecast or unexpected revenue/surplus to reserves.

The aggregate targets ensure that both an operating surplus and an overall surplus are achieved in each of the forecast years.

An overview of section five:

Allocations

This section, Madam Speaker, specifies the allocations of the aggregate targets under which the 2003/2004 Budget will be based.

The allocations are for planning purposes rather than as a definitive allocation of resources and on the operating expenditure side the Government will endeavour to do better than the target. The allocations are based on an assumed new ministry or portfolio structure consequential on constitutional changes which, at the time this Strategic Policy Statement was prepared, have not been finalised. If the constitutional changes result in a different machinery of Government, arrangement from that assumed in this Strategic Policy Statement, the allocations will be amended and reported in the 2003/2004 annual plan and estimates.

Members should note that on page 24 of the Strategic Policy document, on Table 7 the amount of \$5.25 million for equity injections should be under the Ministry of Health and not under the Ministry of Education.

In conclusion, Madam Speaker, the Strategic Policy Statement that the Government has brought to this House today sets out the policy and financial parameters that the Government has established for the 2003/2004 Budget.

The Government's goal is to build a secure, prosperous Cayman Islands that can be a proud legacy for future generations. The Strategic Policy Statement lays out a set of policy and financial parameters designed to achieve this goal.

I would like to take this opportunity to thank all those persons who have contributed to the production of this document.

Madam Speaker, I do have two more statements, but I will crave the indulgence of the Chair and of the House to deal with those two statements later on. One is a statement in regards to the European Union's Tax Savings Directive and the other on the Constitution.

Thank you, Madam Speaker.

The Speaker: Seeing that is now past the normal lunch time, we will now suspend for lunch and reconvene at 2.30 pm.

Proceedings suspended at 1.10 pm

Proceedings resumed at 3.20 pm

[Deputy Speaker in the Chair]

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

Statements continuing. The Honourable Leader of Government Business.

[Pause]

European Union's Draft Taxation on Savings Income Directive and other International Initiatives

Hon. W. McKeeva Bush: Mr. Speaker, I rise with a grave heart because I believe we are truly being tested.

Since I rose last Monday to inform Honourable Members of matters in relation to the European Union's Draft Directive on the Taxation of Savings Income there have been several developments. European Ministers of Finance met on Tuesday of this week to evaluate progress in the negotiations between the European Commission and the six independent countries specified in the Feira Accord. At this meeting the UK also informed the European Union Finance Ministers regarding the United Kingdom's perspective on whether the Caribbean Overseas Territories, including the Cayman Islands, would introduce the automatic exchange of tax information with European Union Member States.

Reports emerging from the meeting indicate that as Switzerland has not agreed to introduce automatic exchange of information, or even full exchange of information upon request, several European Union Member States initially refused to endorse the package negotiated by the European Commission. This has resulted in new proposals, which substantially enhances what our competitors are being offered and further undermines the level playing field we are seeking.

We have also been informed that at that same meeting the United Kingdom's Chancellor of the Exchequer indicated that the United Kingdom would "ensure" that the Caribbean Overseas Territories would apply the automatic exchange of information from the same date and on the same basis as all Member States. That "same date", were it to occur, would appear at present to be some time between 2007 and 2011 depending on whether a withholding tax proposed by Denmark is accepted and the "same basis" has not yet even been decided by the European Union Member States and may well not be fully decided for the next five years. It would appear to be the United Kingdom's current preference is that those dependencies and overseas territories selected by the United Kingdom, including the Cayman Islands but not Bermuda, would be encouraged to adopt the automatic exchange of information in 2004.

We accept that at the European Finance Ministers' meeting last Tuesday the Chancellor would have appropriately prefaced his comments with an explanation of the conflict of interest which the United Kingdom has in this regard and an explanation of the nature of the constitutional relationships which presently exist. As I have previously noted, the Chancellor is understandably looking out for his own interests and those of his political constituency in the United Kingdom's financial services industry rather than the interests of the Caribbean Overseas Territories. The fact remains, however, that all European Union Member States, including the United Kingdom, also have obligations both national and international to take into consideration the interests of the Caribbean Overseas Territories including these Cayman Islands.

The Caribbean Overseas Territories have repeatedly indicated to the United Kingdom that while they can understand the value of the Savings Directive to the United Kingdom and they remain willing to discuss matters related to the European Union Tax Package, such discussions can only move forward in a direction and in a context which safeguards the interests of the people of the Caribbean Overseas Territories.

The Cayman Islands have legitimate concerns which relate to the legality and fairness of the Feira Accord and its practicality. These concerns have been communicated to the United Kingdom and the European Union.

Mr. Speaker, the Cayman Islands has legitimate expectations that any process and outcome adopted by the European Union in regard to the Savings Directive will comply with European Union and international law. The United Kingdom has done no economic impact assessment regarding the likely effects of the application of the Savings Directive to the Cayman Islands despite a clear, political commitment that it would do so set out in the so-called Partnership for Progress and Prosperity White Paper. Furthermore, any application of the Savings Directive

in the Cayman Islands, but not our competitors, is very likely to be both disproportionate and ineffective.

The European Union has indicated that it is aware that there would be some costs to both private sector operators and public sectors associated with implementation of the Savings Directive, but that it has no information regarding whether or not there is any unreported savings income generated by EU residents within the Cayman Islands, nor has it any information to indicate that if the Cayman Islands is obliged to adopt the Savings Directive that any additional tax revenues will be obtained by the EU Member States as a result.

The Feira Accord clearly discriminates among overseas countries and territories in that only certain overseas countries and territories are intended to be burdened by the Savings Directive. By way of example, the United Kingdom knowingly excluded Bermuda, which is a competitor of the Cayman Islands from the Draft Directive.

The Cayman Islands is not interested in protecting tax evaders. If the automatic exchange of information was an international standard, or if it was to be adopted by all countries at the same time, the Cayman Islands would have been among the first to subscribe. However, we cannot subscribe to legislation or policy which is being created in Europe without any representation for our people, from our people and which is designed to cripple our ability to be self-sufficient and to take jobs from our people and give them to our competitors.

The issue at hand is one of fairness and equity and it seems the treasury of the United Kingdom knows nothing about fairness to the Overseas Territories, in particular, the Cayman Islands. It seems their job, their *modus operandi*, is about how Europe treats its colonies in the 21st century.

We cannot stand by and allow the Cayman Islands to be the victim of an illegitimate process or outcome. Neither can we condone the Cayman Islands assuming substantial, discriminatory and disproportionate burdens on behalf of the European Union Member States without any form of consultation, consideration or compensation from them.

The Government is very concerned that the displacement or "out burdening" by the EU of tax enforcement burdens to the Cayman Islands, and other colonies which receive no benefit from the European Union, distorts economic competition. There is concern particularly when the European Union is offering much less onerous burdens tied to substantial economic benefits to other countries, such as Switzerland. Many jurisdictions including the Bahamas, Barbados, Hong Kong, and Singapore, all materially in competition with the Cayman Islands, are not being asked to adopt the European Union Tax Package and would stand to gain a competitive advantage if the Cayman Islands were obliged to implement the Savings Directive. Similarly, it seems reasonable to

assume that business derived from some European Union residents, or the "paying agents" of any such European Union residents, would tend to migrate to other unaffected countries resulting in no gain to the European Union but a tremendous loss to the Cayman Islands.

The European Commission has accepted that in the case of Switzerland automatic exchange of information is not required. This option has not been offered to the Caribbean Overseas Territories. It is clear that if this discriminatory approach is adopted, then part of the "compensation" being offered by the European Union to Switzerland as an enticement to adopt less onerous "equivalent measures" will be capital and jobs moving from the Caribbean Overseas Territories to Switzerland. This means a tremendous loss for the financial industry and those employed in the financial industry; loss of revenue for the Government, loss of jobs for the people of these Islands. The Caribbean Overseas Territories have identified various measures which might mitigate any damage caused by adoption and implementation of the Savings Directive. These were put forward to the United Kingdom for discussion more than one year ago, but to date, no substantive response has been received. The Cayman Islands remains committed to dialogue with the United Kingdom and the European Union on these matters and have requested the convening of a process to resolve these issues.

Given all of the above, the Government views protecting the interests of our people best is to maintain the position adopted to this point by the Caribbean Overseas Territories. The level playing field and other issues must be resolved prior to the provision by the Cayman Islands of any reassurances. Mr. Speaker, we are going to do what is in the best interest of all the people of these Islands, and it is time that the Cayman Islands stop committing to legislation that does not help us. I give this House the guarantee, along with my other colleagues, that we are not going to rollover for the United Kingdom's Treasury, nor are we going to be used as pawns in this instance. We will not commit to something that is to our detriment. This, I would say to the United Kingdom, is not the 1800's when they could just push around any territory they had. We are not going to allow them to do this.

I have already said that we are going to the legal courts in the United Kingdom, through the courts in the European Union and to the United Nations if necessary. This House must understand and this country must understand that we are in a rough or tough position because we have now been threatened and, Mr. Speaker, we will have to do what is necessary for the protection of our country.

Mr. Speaker, there were indications for me to talk to Treasury personnel while in the United Kingdom. I do not intend to have any discussion with them. I will talk to Baroness Amos, who is responsi-

ble for the Foreign and Commonwealth Office, the good governance and good interest of our territory.

Response to the Headline Article "PPM: LGB Statement 'Misleading' – Constitutional Change Needs Voter Approval, PPM Insists" of 5 December 2002

Mr. Speaker, it is not usual that I would rise to speak in connection to a press report. However, the report in today's *Caymanian Compass* is riddled with mischievousness and hostility. It is misleading and is being said on the eve of our departure to a meeting held in London for which the Foreign and Commonwealth Office has asked us to narrow our differences.

We worked for the whole day of Friday, 29 November; we agreed and disagreed on the areas I reported to this Honourable House, to television and on *Radio Cayman*. Through those mediums I emphasised that the People's Progressive Movement (PPM) did not agree on the implementation timetable.

It really amazes me that the Leader of the PPM would write a letter published to the press to say I was potentially misleading. There is no scheme to ram anything down anyone's throat as the PPM, in such a hostile manner, has accused the United Democratic Party (UDP) of wanting to do.

Mr. Speaker, in that meeting we agreed on the following points:

1. Full Ministerial form of Government

In keeping with the constitutional Commissioners recommendation for a full ministerial form of government, with a Chief Minister and six other ministers (leaving aside the Attorney General) that meeting endorsed this position.

It was also agreed that the nomenclature of Executive Council would be changed to Cabinet. We also discussed and agreed on certain provisions for the office of Attorney General. Those provisions are that there shall be an Attorney General who shall be the principal legal advisor to Government; the Attorney General shall be a person entitled to practice as an attorney at Law in the Cayman Islands; the Attorney General shall be appointed by His Excellency the Governor in accordance with the advice of the Chief Minister; the Attorney General shall not be either an elected Member of the Legislative Assembly or a public officer. Provisions shall be made for a temporary appointment of an Attorney General, that is, to act in his absence, and that prosecutorial functions should cease and be vested in the office of the Solicitor General. We agreed on:

2. Term Limits

It was agreed to place a limit of two consecutive terms on the post of Chief Minister with a minimum break of one full term of office.

3. Vote of No Confidence

We agreed that a vote of no confidence can only be brought against the entire Government and shall require 11 votes under the proposed membership of 17 Elected Members.

4. Office of the Speaker of the House

It was agreed that the Speaker of the House would be a non-elected Member and the Deputy would be an Elected Member.

5. Definition of Caymanian

We agreed on the definition of a Caymanian. That wording was left in the air because they agreed, more or less, with ours and they did not have the same wording but we understood their wording to mean the same thing.

6. Single Member Constituencies

Agreement was reached for the introduction of seventeen single member constituencies with the six electoral districts for the 2004 Elections, which conforms to the universal concept of "one man one vote".

Mr. Speaker, I did not agree with any joint communiqué because the PPM representatives said that they would support these things after consultation with the public in whatever way, I think was the way Mr. Tibbetts worded it.

Having agreed these points which all of us recognise as being among those points, six points, which a section of our people asked us to agree on in their Petition. We do not see why anyone would now want to spend \$600,000 on a referendum if we have now agreed to support those points in a new constitution as they have asked. It is not a matter of anything being rammed through without proper consultation. This present debate and explanations of the review have been ongoing since May of last year, and more debate since the Commissioner's report was made public. At all times, the UDP has been in the forefront, informing the public and listening to the feedback, taking advice and debating the review document in this Honourable House, which document, was then forwarded to London by His Excellency the Governor.

We have said that there are a few areas which could be implemented before 2004. A Chief Minister – one new Minister out of the present membership of the House, and the Boundaries Commission. These areas we agree on; we agree that these

areas are needed in the Constitution. If that is so, and everyone feels these are items which should be included in the Constitution, why should they not be put in place rather than wait for two years? For very good reason we feel that there should be some areas implemented early 2003 (1) for better governance and (2) the Boundaries Commission.

The PPM campaigned from March of this year for "one man one vote" and a Boundaries Commission. If we are going to have single-member constituencies we need to start the work early 2003. As we know, the appointment of membership, that is, Chairman and Members of the Commission, will be a contentious issue. Who will appoint those Members? The Constitution of the Review Commissioners has said the Governor shall appoint a chief minister in accordance with advice from the Leader of the Opposition, the First Elected Member for George Town, and whoever we choose on our side. The actual drawing of the constituencies within the districts will be very controversial. Whether there was a referendum or not it would be controversial. The fact is the PPM supports "one man one vote" and therefore supported boundaries commission last week when we met. To have all this clear for 2004 General Elections, the Boundaries Commission will need to be in place as is recommended by the Review Commissioners. This is so because the present 1972 Constitutional Order does not provide for a Boundaries Commission, nor does the present Constitution for 1972 provide for 17 seats. If the P.P.M. wants those things, how then do we get it for 2004 if not to get in place by 2003? That is what we call "partial implementation".

At the very least it is very mischievous for the Leader of the PPM to say that the UDP, through me, reported that the United Kingdom wanted early implementation. What I did say was that we believe that the United Kingdom is keen to agree on early implementation of some areas of the proposed Constitution. That is so, because of the governmental reform presently underway.

It is also completely untrue for the Leader of the PPM to say that no one campaigned in the 2000 General Election for constitutional change. The White Paper caused a campaign long debate on constitutional changes. Forums were held throughout 2000 and many Members of this House campaigned for changes because we recognised what the White Paper was telling the Caymanian people. We ended our campaign on the basis that if changes had to be made we were prepared to make those changes after consulting the Caymanian public. I know that the Deputy Leader, the Minister for Telecommunications, the Minister of Education and the Minister of Health all campaigned on that basis as well. From what I have heard the Member for East End campaigned on a like basis, in the same manner debated the Constitution. I believe that the Second Elected Member for

Cayman Brac campaigned for modernisation and to implement if needed.

[Inaudible interjection]

Hon. W. McKeeva Bush: Well, Mr. Speaker, I hear that I am getting it wrong, but that is only one Member saying that.

I believe too that the Member for North Side campaigned on that basis. I am merely saying to this Honourable House that if changes are needed now, why would you deny the Government of the day and the country the tools to work with?

The Second Elected Member for George Town and a Member of the Opposition debated the Public Management and Finance Law. It was said at length that what is needed as far as the Attorney General's post and the debate is for all to see. If that is so, why deny the Government the tools to work with?

It is rather unfortunate that the Leader of the PPM did not debate the Constitution and its needs in the 2000 General Election. I understand that Member has a problem and, the former Leader of Government Business does not want any constitutional changes, never did and never will [Mr. Truman Bodden]. So they play politics together; one trying to leverage against the other.

Mr. Speaker, the UDP is in favour of some changes. We have gone the full length and breadth of the country to tell the people why we believe those changes are needed. In the long term, and for generations to come, when I see what the mother country is prepared to do to these Cayman Islands, a new constitutional order as is proposed and agreed by the PPM and UDP, will safeguard our posterity. It will offer a better-organised governmental structure and safeguard the governance of our beloved Islands.

Mr. Speaker, I hear the Member saying that it will provide me with the Chief Minister. That is not necessarily so; it could be somebody else. So what if it is? Somebody needs to lead and the fact is that when your leader had the opportunity to lead he did not lead, and some of the problems that we are experiencing today are because of non-leadership in this country. Much time and energy has been spent on this review by all of us.

I have always tried to do what is good for the majority of these Islands. There are greater issues at stake in Cayman today. Our financial industry is under attack by the very powers that should be assisting us. The politics must be put aside. It is time for leadership and that is what I provide with the assistance of a good deputy and a strong party leadership in the UDP.

If the administration that built the dock, this Legislative Assembly, the Glass House, the Court House, the Hospital of the day, and the roads of the day had listened to the Opposition of the day and

paid heed to the petitions of the day, we would be the worst off at this hour. I have been here long enough to know when the issues can go ahead and when we should hold back. We know when the Opposition is genuine and when they are opposing for opposition sake. It is my opinion that the Opposition does not support single member constituencies, but since the United Democratic Party was against, it was good politics for them to say they support. Now that we have joined their position, Mr. Speaker, they find another excuse on implementation. They say '*Let us do a referendum*'. Mr. Speaker, we will do a referendum law later on, but as I said before with the assistance of the party, we cannot govern this country by referendum alone. We are here to safeguard our posterity, not play politics with every issue but to leave a lasting legacy for future generations.

I hope that this statement will get fair treatment, the same prominence as that of the Leader of the Opposition in the local media. Mr. Speaker, I thank you for your indulgence and I thank all Honourable Members for theirs.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

Hon. W. McKeeva Bush: Mr. Speaker, today being Thursday, when Private Members' Motions take precedence on the Order Paper, we wish to suspend Standing Order 14(2) in order to take Government Business first.

Suspension of Standing Order 14(2)

The Speaker: The question is that standing Order 14(2) be suspended.

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

Ayes.

Mr. V. Arden McLean: Mr. Speaker, there is no quorum.

The Speaker: Mr. Serjeant, since the attention has been brought that there is no quorum, could I ask you to get a quorum for us, please?

[Pause]

The Deputy Speaker: Proceedings are resumed since we now have a quorum. The question is that Standing Order 14(2) be suspended.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Standing Order 14(2) suspended to enable Government Business to take precedence over Other Business.

GOVERNMENT BUSINESS

Bills

Suspension of Standing Orders 45 and 46(1) and (2)

Hon. W. McKeeva Bush: Mr. Speaker, we move for the suspension of Standing Orders 45 and 46(1) and (2) in order to take First Readings of the Public Holidays (Amendment) Bill, 2002 and the Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002.

The Deputy Speaker: The question is that Standing Orders 45 and 46(1) and (2) be suspended.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed. Standing Orders 45 and 46(1) and (2) suspended to enable the Public Holidays (Amendment) Bill, 2002 and the Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002 to be read a first time.

FIRST READINGS

The Public Holidays (Amendment) Bill, 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and set down for Second Reading.

Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and set down for Second Reading.

Suspension of Standing Order 46(4)

The Deputy Speaker: Can I have a Mover for the suspension of Standing Order 46(4).

Hon. W. McKeeva Bush: Mr. Speaker, we move for the suspension of Standing Order 46(4) in order to take the Second Reading of the two Bills.

The Deputy Speaker: The question is that Standing Order 46(4) be suspended.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Standing Orders 46(4) suspended to enable the Public Holidays (Amendment) Bill, 2002 and the Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002 to be read a second time.

SECOND READINGS

The Public Holidays (Amendment) Bill, 2002

The Deputy Speaker: The First Official Member.

Hon. James M. Ryan: Mr. Speaker, I move the Second Reading of a Bill entitled The Public Holidays (Amendment) Bill, 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. James M. Ryan: Thank you, Mr. Speaker.

This Bill, The Public Holidays (Amendment) Bill, 2002, amends the Public Holiday's Law (1995 Revision) in order to clarify that the Governor may, by order, amend the schedule for the purposes for appointing new public holidays. The Bill also amends the schedule to provide for two new holidays. In 2003, and for 2003 only, there will be a new holiday called *Seafarer's Day*. This holiday will be the third Monday in May. *Seafarer's Day* is being declared in order to recognise the contribution made by seamen towards the development of the Cayman Islands. Discovery Day will not be celebrated in 2003.

From 2003 the Islands will also be celebrating a new holiday on the fourth Monday of January of each year to be known as *National Hero's Day*. In fact, there is actually only an increase of one holiday, but because of the renaming of the day for next year, for 2003 only, it is referred to here as two new holidays: one for 2003 only, and the other that I referred to as National Hero's Day will be done once this is passed into law from next year and thereafter.

I thank you.

The Deputy Speaker: Does any other Member wish to speak? The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Mr. Speaker, the Government and the United Democratic Party are pleased by this holiday for seamen to be recognised. We be-

lieve that these people began to put the foundations in place for what all of us enjoy today. They went to sea, they suffered the weather, some of them were shipwrecked, some children were left fatherless and mothers lost sons. We ought to recommend, celebrate and hold up on some kind of pedestal such a group I am proud that our United Democratic Party saw fit to do so.

The Deputy Speaker: Does any other Member wish to speak? Since no other Member wishes to speak, does the Honourable First Official Member wish to exercise his right of reply?

Hon. James M. Ryan: Thank you, Mr. Speaker. I would just like to thank the Honourable Leader of Government Business for his short but very important contribution, and I thank all other Honourable Members for their tacit support. Accordingly, I commend this Bill for continuation through the House.

The Deputy Speaker: The question is that a Bill shortly entitled The Public Holidays (Amendment) Bill, 2002 be given a Second Reading.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Public Holidays (Amendment) Bill, 2002 given a Second Reading.

The Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of a Bill entitled The Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. George A. McCarthy: Yes, Mr. Speaker. I would like to make some brief introductory remarks to explain why share transfer tax exists which will provide a context in which the Bill can be easily understood.

It is well known, Mr. Speaker, that when ownership of property passes from one individual to another, stamp duty is normally charged. Companies are also allowed to own properties in the Cayman Islands. When a property-owning company issues or redeems shares this results in the company having

different shareholders, and accordingly, the underlying property owned by the company can also be regarded as being held by different shareholders. Just as stamp duty becomes payable to Government when the ownership of property passes from one individual to another, an equivalent charge should also arise when the ownership of property changes as a result of land-holding company altering its share structure. In the context of individuals, this charge is called "stamp duty", and in the case of companies it is known as "share transfer tax".

During the course of this year the Government was approached by a group of private sector investors desirous of establishing an investment company that would apply for a mutual fund licence. The fund would invest all its available resources exclusively in properties located in the Cayman Islands. The fund would be liable to pay stamp duty to the Government in respect of all properties purchased in the Islands. The fund will need to issue new shares in order to acquire further resources for investment.

As I explained earlier, each time a change in the capital structure of an entity that owns property occurs, share transfer tax would ordinarily become payable to the Government. The sponsors of the fund have explained that paying share transfer tax each time its capital structure changes would result in the fund losing its appeal. A request was therefore made that the Government allow the fund to issue and redeem its shares without having to pay share transfer tax. The Government is responsive to initiatives that help the local economy, and this is undoubtedly one such initiative. It is worth repeating once again that in every instance of the fund buying property, stamp duty will be paid to the Government.

The sponsors of the fund sought Government's willingness to forego the paying of the share transfer tax, which would only arise in specific instances of a change to the fund's capital structure. It is important to point out that the Government is not forsaking a major source of revenue by being agreeable to this initiative.

The 2002 Budget shows that Government forecasted that \$200 thousand would be received in respect of share transfer tax from all land-holding corporations for the entire year. In 2001, approximately \$232 thousand was received from this source, and in the year 2000, \$266 thousand was received.

Mr. Speaker, the benefits that will accrue from the funds operation are likely to outweigh any loss of revenue suffered by the Government. These benefits include-

1. Investors having an opportunity to diversify their portfolio.
2. The creation of a large pool of resources that will be invested in the local economy, which will probably not occur if its creation is dependent upon

an individual investor or a small group of investors and;

3. An improvement in the liquidity of the local real estate industry.

Mr. Speaker, in addition to the points I have just outlined, Government itself would receive the following benefits-

1. Initial and ongoing annual company fees would accrue to Government as a result of the investment company being created.

2. Initial and ongoing annual mutual fund licence fees would also accrue to Government.

3. Initial and ongoing annual listing fees would become payable to the Cayman Islands Stock Exchange as a result of the intention to list the fund on the Exchange and;

4. Stamp duty would accrue to the Government whenever property was bought in the Islands.

This fund will not invest in properties and allow them to remain empty and idle. It will only be successful to the fund if those properties that will be purchased are filled with people and businesses. This means positive spin-offs will be felt in the economy. Mr. Speaker, these introductory remarks provide the origins of the Bill now before this Honourable House.

The Memorandum and Objects of the Bill

Mr. Speaker, the title is that it is a Bill for a Law, which is entitled The Land Holding Transfer Tax (Amendment) Bill, 2002, which is now before Honourable Members.

The Bill's Memorandum of Objects and Reasons is self-explanatory and consistent with the remarks, which I have just made. It sets out the conditions that have to be satisfied in order for a land-holding corporation to receive an exemption from the payment of share transfer tax.

Clause 1 of the Bill provides a title of the intended Law.

Clause 2 provides that the use of the term Mutual Fund has a same meaning in this Law as given in section 2 of the Mutual Funds Law 2001 (Revision).

Clause 3 of the Bill means that the Financial Secretary may exempt land-holding corporations from the payment of share transfer tax if the conditions specified in clause 4 are satisfied.

Clause 4 provides certain conditions that are to be met if land-holding corporations are to be successful at getting an exemption from the payment of share transfer tax. Mr. Speaker, for the benefit of the listening public, these conditions are as follows-

- If the entity is a mutual fund it must be licensed under the Mutual Funds Law.

- Be listed on the Cayman Islands Stock Exchange.
- Invest its resources exclusively in properties located in the Cayman Islands.
- If the entity is not a mutual fund, its land holding must be incidental to its main business
- It must be listed on a Stock Exchange approved by the Financial Secretary.

Clause 4A(a) requires that an annual declaration be submitted to the Financial Secretary by the land-holding entity to the effect that it continues to comply with the conditions of approval specified in Clause 4A(3). Such a declaration must be accompanied by an annual fee of CI\$5,000.

Mr. Speaker, I commend this Bill to this Honourable House and ask Honourable Members for their support.

The Deputy Speaker: Does any other Member wish to speak? The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Mr. Speaker, I will be very brief. The change that the Honourable Financial Secretary has brought allows for a unique financial structure which we did not have before. While it only allows for exclusive investment for property in the Islands, we believe it will provide for increased activity in the industry. It comes at a time when new financial vehicles are needed, and it shows that we are listening and working with the private sector.

The Deputy Speaker: Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: Mr. Speaker, I thank the Honourable Leader of Government Business for his brief but relevant remarks and other Honourable Members for their tacit support.

The Deputy Speaker: The question is that a Bill shortly entitled The Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002 be given a Second Reading.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002 given a Second Reading.

The Deputy Speaker: The House will now go into Committee to consider the Bills.

[Pause]

House in Committee at 4.20 pm

COMMITTEE ON BILLS

The Chairman: The House is now in Committee. With the leave of the House, may I assume that as usual we should authorise the Second Official Member to correct minor errors and such the like in these Bills? Would the Clerk please take the Bill and read the clauses.

The Marine Conservation (Amendment) Bill, 2002

Hon. W. McKeeva Bush: Mr. Chairman, I circulated an amendment, and I think that there is a further amendment to that one and perhaps we can go to other Bills and come back to that one. I think it has been circulated, yes. If you could move to another one, Mr. Chairman, I would appreciate it.

The Development and Planning (Amendment) (No. 3) Bill, 2002

Clauses 1 - 5

The Clerk:

- | | |
|----------|---|
| Clause 1 | Short title. Commencement and expiry. |
| Clause 2 | Amendment of section 41 of the Development and Planning Law (1999 Revision). Infrastructure fund. |
| Clause 3 | Amendment of section 45 of the Development and Planning Law (1999 Revision). Regulations. |
| Clause 4 | Amendment of section 2 of the Development and Planning (Amendment) (No 2) Law 2002. Provisions for development appeals. |
| Clause 5 | Validation. |

The Chairman: The question is that clauses 1 through 5 do stand part of the Bill.

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

Ayes.

The Chairman: Clauses 1 through 5 passed.

The Clerk: A Bill for a Law to make further provision in respect to the charging of fees under the Development and Planning Law 1999 (Revision) to extend the temporary reduction of amounts payable as contributions to the infrastructure fund to rectify the Development and Planning Amendment (No 2) Law, 2002 and to make provision for related matters.

The Chairman: The question is that the Title do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Title passed.

The Electricity (Amendment) Bill, 2002

Clauses 1 - 6

The Clerk:

- | | |
|----------|---|
| Clause 1 | Short title. |
| Clause 2 | Amendment of the Electricity 2000 (Revision). Definition of name. |
| Clause 3 | Repeal of section 19 and substitution. |
| Clause 4 | Amendment of the principal Law. Insertion of new sections. |
| Clause 5 | Repeal of section 20. Wayleaves to be registered. |
| Clause 6 | Amendment of the original Law. Insertion of schedule. |

The Chairman: The question is that clauses 1 through 6 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 1 through 6 passed.

The Clerk: A Bill for a Law to amend the Electricity Bill 2000 (Revision) to allow undertakers to compulsorily acquire land for the purpose of providing an electrical supply in the Island and for connected purposes.

The Chairman: The question is that the Title do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Title passed.

The Stamp Duty (Amendment) Bill, 2002

Clauses 1 - 3

The Clerk:

- | | |
|----------|---|
| Clause 1 | Short title. |
| Clause 2 | Insertion of section 26A in the Stamp Duty Law (2002 Revision). Power to vary schedule. |
| Clause 3 | Amendment of the schedule to the Stamp Duty Law (2002 Revision). Rates of duty. |

The Chairman: The question is that clauses 1 through 3 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 1 through 3 passed.

The Clerk: A Bill for a Law to amend the Stamp Duty Law (2002 Revision) to extend the temporary reduction of the stamp duty on documents relating to the conveyance or transfer of immovable property and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Title passed.

The Companies (Amendment) Bill, 2002

Clauses 1 – 2

The Clerk:

Clause 1 Short title.
Clause 2 Amendment to the Companies Law (2002 Revision). Enforcement of penalties.

The Chairman: The question is that clauses 1 and 2 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 1 and 2 passed.

The Clerk: A Bill for a Law to amend the Companies Law (2002 Revision) in order to provide for the recovery of unpaid penalties and for incidental and connected purposes.

The Chairman: The question is that the title -stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Title passed.

The Exempted Limited Partnership (Amendment) Bill, 2002.

Clauses 1 - 2

The Clerk:

Clause 1 Short title.
Clause 2 Amendment of the Exempted Limited Partnership Law (2001 Revision). Penalties and enforcement.

The Chairman: The question is that clauses 1 and 2 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 1 and 2 passed.

The Clerk: A Bill for a Law to amend the Exempted Partnership Law (2001 Revision) to provide for the recovery of unpaid penalties and for incidental and connected purposes.

The Chairman: The question is that the title do-stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Title passed.

The Immigration (Amendment and Validation) Bill, 2002

Clauses 1 – 5

The Clerk:

Clause 1 Short title.
Clause 2 Amendment of the Immigration Law (2001 Revision). Definitions and interpretation.
Clause 3 Amendment of the Immigration Law (2001 Revision). Insertion of part 6A.
Clause 4 Amendment of section 64. Power of Governor to make deportation order.
Clause 5 Validation.

The Chairman: The question is that clauses 1 through 5 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 1 through 5 passed.

The Clerk: A Bill for a Law to amend the Immigration Law (2001 Revision) to provide for the hearing of asylum applications to validate sudden decisions, acts and proceedings of the Governor under the Immigration Law (2001 Revision) from 6 May 2002 to 17 September 2002 and for incidental and connected purposes.

The Chairman: The question is that the title do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Title passed.

The Health Practice Bill, 2002

Clause 1

The Clerk: Clause 1 Short title and commencement.

The Chairman: The question is that clauses 1 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 1 passed.

Hon. Gilbert A. McLean: Mr. Chairman, I would like to bring to the attention of the Chair and the Committee that some amendments were circulated, and at the appropriate time I would like to move them.

The Chairman: Honourable Member leave has been granted of the two days' waiver of notice so permission was granted by the Speaker earlier on today.

Hon. Gilbert A. McLean: Thank you.

Clause 2

The Clerk: Clause 2 Interpretation.

Hon. Gilbert A. McLean: Mr. Chairman, I would like to move the amendment that in accordance with Standing Order 52(1) and (2), I, the Honourable Minister responsible for Health Services, give notice that I intend to move the following Committee stage amendments to the Health Practice Bill, 2002.

That clause 2 be amended in the definition of "clinical trial" by inserting after paragraph (b)(ii) the following sub-paragraph – "(iii) the administration of any medicinal product approved by the World Health Organisation."

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? If no Member wishes to speak, the question is that the amendment stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it. Amendment passed.

The question is that the clause, as amended, stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clause 2, as amended, passed.

Clauses 3 – 7

The Clerk:

Clause 3	The health commission.
Clause 4	The health appeals tribunal.
Clause 5	Certification of health care facilities.
Clause 6	Duration of certificate.
Clause 7	Renewal of certificate.

The Chairman: The question is that clauses 3 through 7 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 3 through 7 passed.

Clause 8

The Clerk: Clause 8 Management of a health care facility.

Hon. Gilbert A. McLean: Mr. Chairman, under the Standing Order as before cited in the notice of Committee stage amendment, I beg to move that clause 8 be amended by inserting before the word "Every" the words "clinical services at".

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? If no Member wishes to speak, the question is that the amendment stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it. Amendment passed. The question is that the clause 8 as amended stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clause 2, as amended, passed.

Clause 9

The Clerk: Clause 9 Clinical trials.

The Chairman: The question is that clause 9 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clause 9 passed.

Clause 10

The Clerk: Clause 10 Health fees.

The Chairman: Honourable Minister for Health.

Hon. Gilbert A. McLean: Mr. Chairman, following the notice of Committee stage amendments, I beg to move under the relevant Standing Order that clause 10(1) be amended by deleting the word "benefit" and substituting the word "service".

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? If no Member wishes to speak, the question is that the amendment stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it. Amendment passed. The question is that the clause 10(1), as amended, stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clause 10(1), as amended, passed.

Hour of Interruption—4.30

The Chairman: Honourable Members, we have reached the Hour of Interruption. Since we are in Committee stage the decision has been taken to continue, so I will defer interrupting the Business until the completion of the Committee.

Clauses 11 – 12

The Clerk:

Clause 11 Refusal of certificate.
Clause 12 Certificate to a body corporate.

[Pause]

The Chairman: The question is that clauses 11 and 12 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 11 and 12 do stand part of the Bill.

Clause 13

The Clerk: Clause 13 Revocation of a certificate and appeal against revocation.

Hon. Gilbert A. McLean: Mr. Chairman, I beg to move that clause 13(1)(d) be amended by deleting the word "person".

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? If no Member wishes to speak, the question is that the amendment stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it. Amendment passed. The question is that the clause 13(1)(d), as amended, stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clause 13(1)(d), as amended, passed.

Clauses 14 – 20

The Clerk:

Clause 14 Closure of health care facility.
Clause 15 Offences.
Clause 16 Inspection of health care facilities.
Clause 17 Improvement notices.

Clause 18	Prohibition notices.
Clause 19	Provisions supplementary to sections 17 and 18.
Clause 20	Appeal against improvement of prohibition notice.

The Chairman: The question is that clauses 14 through 20 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 14 through 20 passed.

Clauses 21 – 27

The Clerk:

Clause 21	The councils.
Clause 22	Appointment of a Registrar.
Clause 23	Establishment and maintenance of Registrars.
Clause 24	Full registration.
Clause 25	Provisional registration.
Clause 26	Overseas lists.
Clause 27	Specialists.

The Chairman: The question is that clauses 21 through 27 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 21 through 27 passed.

Clauses 28 – 37

The Clerk:

Clause 28	Power to make registrations with respect to the Registers.
Clause 29	Access to the Registers etc.
Clause 30	Removal of names and frauds or error in relation to registration.
Clause 31	Registration fees.
Clause 32	Promotion of professional education and development.
Clause 33	Approval of courses and qualifications.
Clause 34	Post registration education.
Clause 35	Codes of standards of professional practice.
Clause 36	Censure suspension striking off etc.
Clause 37	Proceedings as to unprofessional conduct, etc.

The Chairman: The question is that clauses 28 through 37 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 28 through 37 passed.

Clauses 38 – 45

The Clerk:

Clause 38	Offences relating to registration etc.
Clause 39	Power to extend or restrict application of Law.
Clause 40	Default powers of the Governor in Council.
Clause 41	Service of documents.
Clause 42	Regulations etc.
Clause 43	payment of fees.
Clause 44	Repeal transitional provisions and savings.
Clause 45	Binding of the Crown.

The Chairman: The question is that clauses 38 through 45 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 38 through 45 passed.

The Clerk: A Bill for a Law to provide for the establishment of a Health Commission and a Health Appeal Tribunal to provide for the establishment of councils to regulate health practitioners, to repeal the Health Practitioners Law (1995 Revision) and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Title passed.

The Companies (Amendment) (No 2) Bill 2002

Clauses 1 – 5

The Clerk:

Clause 1	Short title.
Clause 2	Amendment of section 232 of the Companies Law (2002 Revision). Definitions in this part.
Clause 3	Amendment of section 233 of the Companies Law (2002 Revision). Applications for registration.
Clause 4	Amendment of the principal Law. Insertion of the section 233 A.
Clause 5	Amendment of section 236. Shares and dividends.

The Chairman: The question is that clauses 1 through 5 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 1 through 5 passed.

Clauses 6 – 11

The Clerk:

Clause 6	Repeal of section 237 and substitution, company to act on behalf of portfolios.
Clause 7	Amendment of section 238. Assets.
Clause 8	Amendment of section 240. Segregation of liabilities.
Clause 9	Amendment of section 244. Applications for receivership order.
Clause 10	Amendment of section 245. Administration of receivership orders.
Clause 11	Savings and transitional provisions.

The Chairman: The question is that clauses 6 through 11 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 6 through 11 passed.

The Clerk: A Bill for a Law to Amend the Companies Law (2002 Revision) relating to the formation and administration of segregated portfolio companies and for related and connected purposes.

The Chairman: The question is that the Title stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Title passed.

The Public Holidays (Amendment) Bill, 2002

Clause 1 – 4

The Clerk:

Clause 1	Short title.
Clause 2	Amendment of the Public Holidays Law (1995 Revision). Public General Holidays.
Clause 3	Amendment of the schedule to the Public Holidays Law (1995 Revision).
Clause 4	Expiry.

The Chairman: The question is that clauses 1 through 4 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 1 through 4 passed.

The Clerk: A Bill for a Law to amend the Public Holidays Law (1995 Revision) and for incidental and connected purposes.

The Chairman: The question is that the title do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Title passed.

Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002.

Clauses 1 – 5

The Clerk:

Clause 1	Short title.
Clause 2	Amendment of section 2 of the Land Holding Companies Share Transfer Tax Law (2002 Revision). Definitions.
Clause 3	Amendment of section 4. Transfer between trustees, etc.
Clause 4	Insertion of section 4A - approved land holding corporations.
Clause 5	Insertion of schedule - fee.

The Chairman: The question is that clauses 1 through 5 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 1 through 5 passed.

The Clerk: A Bill for a Law to amend the Land Holding Companies Share Transfer Tax Law (2002 Revision) to exempt certain land holding corporations from the payment of share transfer tax and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Title passed. I think the amendments have been circulated for the Marine Conservation Amendment Bill, if we could revert back to that Bill now, please.

The Marine Conservation (Amendment) Bill, 2002

Clauses 1 – 6

The Clerk:

- Clause 1 Short title.
- Clause 2 Amendment of section 2 of the Marine Conservation Law (2002 Revision) - definitions.
- Clause 3 Amendment of section 6 - closed seasons and bans - lobsters, conch and Nassau groupers.
- Clause 4 Amendment of section 8 - restriction on taking and receiving whelks.
- Clause 5 Amendment of section 15 - use of spear guns prohibited.
- Clause 6 Amendment of section 18 - restriction on taking certain marine life.

The Chairman: The question is that clauses 1 through 6 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it. Clauses 1 through 6 passed.

[Pause]

The Chairman: Could I ask the Minister for Tourism, since there seems to be an insertion of the new clause 7, if he could move that new clause.

Hon. W. McKeeva Bush: Thank you, Mr. Chairman. In accordance with the provisions of Standing Order 52(1) and (2), I move the following Committee stage amendments to the Marine Conservation (Amendment) Bill 2002: By "Insertion of section – Licence to fish. 7. The principal Law is amended by inserting after section 18 the following section:

"18A.(1) Any person who resides in the Islands and –

- "(a) who does not possess Caymanian status (as defined in section 15 of the Immigration Law (2001 Revision)); or
- "(b) who has a permit to work in the Islands and who takes or attempts to take any marine life from Cayman waters by any means is guilty of an offence unless licensed by the Board who may, in granting such licence, impose such conditions as it may think fit.

"(2) The monthly fee for such licence is set out in the Schedule.

"(3) The Schedule may be amended by the Governor by order."

Hon. W. McKeeva Bush: Mr. Chairman, the other day when moving the Second Reading debate on the Bill, I gave notice that I intended to bring this amendment and so I would ask the Honourable Members to support it. We believe that some people may consider this harsh, but when we look at how we could deal with the policing of it then this is the only way we feel that we can deal with it.

In addition to these proposed amendments to the Marine Conservation Law, I would like to state at this time also that we will be consulting with the Marine Conservation Board, the Department of Environment, and Members of the private sector on the establishment of a special management area in the North Sound and perhaps that will extend to other areas by the time we actually get down to doing the work.

It is envisaged that this area will include the sand bar, Stingray City, sections of the fringing reef and some of the more frequent visited areas of patch reefs such as coral gardens and, as I said, other areas that we will be looking at.

Mr. Chairman, the regulations governing this proposal or proposed special management area will set a fee for commercial vessels entering the area with passengers. In addition, the regulations will address the issue of carrying capacity as well as other management interventions such as protocols for interacting with the stingrays and anchoring provisions which will all be aimed at protecting these important resources.

I can also say that we all acknowledge that the establishment of such an area will call for a full-time regulatory presence, and to this end it is my intention to utilise a portion of the fees collected or raised to fund the necessary staff to ensure compliance with these new regulations. It is our intention to have these regulations approved by Executive Council by year-end.

The Chairman: The amendment has been duly moved. Does any other Member wish to speak? The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Chairman. I wish to register some concern in relation to this proposed clause 7.

I understand what the intent is, which is to limit the number of persons who are entitled to just go throw a line in the water and catch fish, and I am all in favour of that, I do not have any difficulty with that. We all know that the marine resources are being severely taxed. However, as proposed, only persons who have Caymanian status or who have a work permit would be entitled to fish in Cayman waters unless they have a fishing licence.

Now, Mr. Chairman, what happens to permanent residents, particularly those permanent residents who are here because they simply like to live in Cayman and have invested significant sums in purchasing a home?

Those sort of people have tremendous amounts of free time and one of the reasons that they come to the Cayman Islands is so that they can enjoy the leisure activities that are available here, and for many of them that includes fishing. As proposed, this definition would keep those sorts of people from being able to fish unless they purchase a fishing licence. The proposed fee for the fishing licence is \$1,000 a month. Who is going to buy a fishing licence? Are we intending to deter tourists who come to the Cayman Islands to fish? What is going to happen to the charter fishing business and the Caymanians who have invested significant sums in purchasing fishing vessels, setting up a business and buying equipment? What are they going to do? Are they going to have to buy a fishing licence for \$1,000 for every single tourist who decides to go on a charter-fishing trip with them? This, Mr. Chairman, in my respectful submission, is completely untenable.

Hon. W. McKeeva Bush: You would say that.

Mr. Alden M. McLaughlin, Jr.: If the fishing licence was \$50 or \$100, perhaps you could see a tourist buying it, but which tourist is going to pay \$1,000 to be able to go fishing for a month? It is absolutely impossible. While we wish on this side to support the efforts at marine conservation, I can tell the Minister straight up now that the Opposition will not support this amendment in its proposed form.

The Chairman: The Elected Member for East End.

Mr. V. Arden McLean: Thank you, Mr. Chairman. When I indicated to the Leader of Government Business that I would support the provisions for fishing licenses for people other than Caymanians, I was under the impression that we were going to look at something similar to when we (I know myself) travel overseas and want to fish. It may be \$50 for a licence which would last perhaps a month, or \$50 - \$100 depending on where you go. I have known of many Caymanians, including myself, who go salmon fishing and you are talking about \$100/\$150 or something like that. So that was the impression I got that we would be doing, but \$1,000 is really a little steep. I think that is somewhat extreme, like the Second Elected Member for George Town said, to expect a tourist to come here and pay when he has to pay \$500 or \$600 for a half-day charter anyway. I presume that he would be required to pay that \$1,000 to fish or the boat owners, whatever the case may be. We have many people in Cayman who have visitors come to visit them and they like to go out deep sea

fishing or the likes, and I think \$1,000 is a little steep. I wonder if maybe the Minister can withdraw that one and propose something else.

The Chairman: The Honourable Minister for Tourism.

Hon. W. McKeeva Bush: I listened to the Second Elected Member for George Town and it is not unlike him to do what he did, and of course the Elected Member for East End had to follow suit or parrot exactly what he did.

Mr. V. Arden McLean: Like how you parrot, right?

Hon. W. McKeeva Bush: I do not expect any better from the Member for East End.

Mr. Chairman, the Second Elected Member for George Town is a lawyer. In regard to who can fish and who cannot, he ought to be able to read that it says any person who resides on the Island, so it does not affect any charter boat fishermen or Caymanian fishermen or any tourists. I do not think that he understands what we are trying to do, but I certainly explained what we are trying to do and it is very clear.

Mr. Chairman, if you read it again it says that who resides on the Islands who does not possess Caymanian status as defined in section 15 of the Immigration Law, 2001, or who has a permit to work on the Islands and who takes or attempts to take any marine life from Cayman waters by any means is guilty of an offence.

I am going to deal with the permanent resident aspect of it. The fact remains that there are at least two nationalities that have been destroying the small marine life in this country, and we cannot, in any legislation, attempt to name any particular nationality. As a Government that is not our policy; I do not think it is good to do that in Parliament. Unfortunately, the good suffers for the bad. How do you do otherwise? How do you protect it? Some of those people also have permanent residence we could not just differentiate, and you are saying \$50/\$150 would offer no protection. This \$1,000 is meant to be stiff because it is meant to protect; that is why we have such a large penalty. Anybody can find \$50/\$150 these days. Those same people will still be on the iron shore killing off the small fish, going around the reef with the bleach and mayonnaise and killing off the small fish. They will be there with sweepers taking every fry that they can get.

The public has long complained about this. In fact, I believe we are late, but people who have accused me of being soft on protection of the environment do not understand where I have been coming from all this time. Certainly, at this time they are going to see that we are not soft on the environment.

We are going to protect it and we have to find ways around certain conditions in the country, but so be it.

Mr. V. Arden McLean: Mr. Chairman.

The Chairman: The Elected Member for the district of East End.

Mr. V. Arden McLean: Maybe what I said earlier was a little off but—

Hon. W. McKeeva Bush: Little bit?

Mr. V. Arden McLean: You cannot expect any better from the Leader of Government Business.

Mr. Chairman, there are other areas that need to be addressed such as the fishing tournaments that are held here in Cayman. They are supported by people on work permits and the like. I wonder if the Minister envisaged that they would have to pay \$1,000 to fish during the tournament.

The Chairman: I am not sure if the Honourable Minister wants—

Hon. W. McKeeva Bush: I do not understand what he is asking.

The Chairman: Elected Member for East End, can you please repeat? While you considering that, I see that the Second Elected Member for George Town has—

[Pause]

The Chairman: The Elected Member for East End.

Mr. V. Arden McLean: Mr. Chairman, what I am saying is that like fishing tournaments, I know the Government supports fishing tournaments for tourism reasons and the like, and he better try and listen. There are many work permit holders, permanent residents and the like that support the fishing tournament year round, so what would happen to those? Would they have to pay \$1,000 to enter in addition to the entry fee for the tournament?

[Pause]

The Chairman: The Honourable Minister of Tourism.

Hon. W. McKeeva Bush: Mr. Chairman, the Member knows that will not be included, he understands that or he should. Well, his lawyer is asking how. It says any person who resides on the Island, and the people that come here to fish do not reside in the Island.

Mr. V. Arden McLean: Mr. Chairman, it also says those who are on work permits have to pay to fish

\$1,000 per month. If you do not have Caymanian status and you reside on the Islands, you have to pay \$1,000 a month to fish; is that correct? If you are not Caymanian with Caymanian status, all others who reside in this country have to pay \$1,000 per month to fish. Can we get it straightened out so that we are clear? Maybe we need legal experts to explain it to us. Maybe I was wrong, but we need legal explanation if our interpretation of that section is correct. If you do not have Cayman status and you reside on the Island, even if you have a work permit or otherwise (permanent residence or whatever), once you reside here you have to pay \$1,000 a month to fish. Thank you, Mr. Chairman, I notice the legal expert is indicating that is true.

Now I ask then, what is going to happen to all those people who reside here on work permits, permanent residency and the like who participate in the fishing tournaments and such year round? Will they be required to pay \$1,000 to obtain a licence to fish? That is all I am asking.

The Chairman: The Honourable Minister of Tourism.

Hon. W. McKeeva Bush: Mr. Chairman, I have never been one to say that I have always been right in every move I have made. I simply say I have tried to do something about a matter that needs attention. If we find that it is creating hardships in any shape or form, we would be sure to come back and amend it. However, as of now this, we believe, will offer that protection that we said we need, and we try to get around it by different ways and means and perhaps some bright person may say otherwise. Regardless, we cannot find any other way to do it and we believe that this is justified.

The Chairman: The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Mr. Chairman, may I suggest a couple of proposals which might have the effect of addressing the concerns that we have on this side? One is, why not create a carve-out for permanent residents and for those who participate in an organised fishing tournament? That should not pose a great deal of difficulty in devising the suitable language for that.

Hon. W. McKeeva Bush: Mr. Chairman, I said earlier that there are certain elements that are causing wanton destruction of the small marine life, and I have said that it is a fact that some of them have permanent residence. We cannot name nationalities in this unless the Opposition wants to propose an amendment. If I understand the Member that he wants us amend to leave out permanent residents, I have just explained why we cannot do it.

Mr. Alden M. McLaughlin, Jr.: Well, Mr. Chairman, our opposition to it has been registered and we shall have to vote against this clause; it is as simple as that. The Government can do what they want.

The Chairman: If no other Member wishes to speak, the question is that clause 7, as amended, stand part of the Bill.

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

Ayes and Noes.

The Chairman: The Ayes have it.

Hon. W. McKeeva Bush: Can we please have a Division?

The Clerk:

Division No. 10/02

Ayes: 7

Hon. W. McKeeva Bush
Hon. Linford A. Pierson
Hon. Gilbert A. McLean
Hon. James M. Ryan
Hon. George A. McCarthy
Mr. Rolston Anglin
Mr. Lyndon L. Martin

Noes: 3

Mr. A. M. McLaughlin, Jr.
Ms. Edna M. Moyle
Mr. V. Arden McLean

Absent: 6

Hon. Roy Bodden
Dr. the Hon. Frank S. McField
Hon. David F. Ballantyne
Capt. A. Eugene Ebanks
Mr. D. Kurt Tibbetts
Mr. Anthony S. Eden

The Chairman: The result of the Division: 7 Ayes, 3 Noes and 6 Absentees. The Ayes have it. New Clause 7 agreed by majority.

[Pause]

New Clause 8

The Clerk: New Clause 8 Insertion of section – prohibition relating to divers.

The Chairman: The Honourable Minister for Tourism.

Hon. W. McKeeva Bush: Mr. Chairman, clause 2 that the following clause be inserted as clause 8: "Insertion of section – prohibition relating to divers. The principal Law is amended by inserting after section 22 the following section: "Prohibition relating to divers.

"22A.(1) Any person who, while diving in Cayman waters, whether using underwater breathing apparatus or otherwise, wears gloves of any type is guilty of an offence."

Mr. Chairman, the Elected Member for East End who just walked out the door brought this point, and we thought it was good. We should insert it in the Law as there is precedent for this and other jurisdictions. We believe that this is also a means of protecting the environment.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? The Honourable Minister for Tourism.

Hon. W. McKeeva Bush: Mr. Chairman, I think I should warn the Opposition, since they do not support it, that this clause, when it says "is guilty of an offence", if you look you see the penalty for the offence under the Law is up to \$500,000.

Mr. Alden M. McLaughlin, Jr.: Mr. Chairman, I am not sure what the warning was about because the Opposition did not say they were not supporting the Bill; they said they were not supporting the insertion of the proposed clause 7. Obviously, the Leader of Government Business is unable to discern between the two.

Hon. W. McKeeva Bush: Well, Mr. Chairman, regardless of what the Member might want to say, I thought it necessary to inform him that they ask for this to be included in the Law, carrying that penalty of up to \$500,000.

[Pause]

The Chairman: Does any other Member wish to speak? If no Member wishes to speak, the question is that the amendment stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it. New Clause 8 passed.

The question now is that Clause 8 as inserted does stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

New Clause 9

The Clerk: New Clause 9 Insertion of Schedule.

The Chairman: Honourable Minister for Tourism.

Hon. W. McKeeva Bush: Mr. Chairman, I move that the following clause be inserted as Clause 9 - "Insertion of Schedule: The Marine Conservation Law (2002 Revision) is amended by inserting the following Schedule –

"SCHEDULE
(sections 18A(2))
Monthly Fishing Licence Fee One thousand dollars"

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?
The Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Mr. Chairman, I believe we have already made plain our opposition to such a steep fee for a fishing licence. I do not think I need to rehearse that but just to indicate that is our position and the Opposition Members will not vote in favour of a fishing licence fee for \$1,000. We are not opposed to having a fishing licence fee, but it must be a reasonable sum, in the range of \$100/\$150.

Hon. W. McKeeva Bush: Mr. Chairman, the Government feels that \$50/\$150 will not offer any disincentive to those persons who have wantonly disregarded the need to see some sort of protection of the environment.

The Chairman: If no other Member wishes to speak, the question is that the amendment stand part of the clause.

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

Ayes and Noes.

The Chairman: The Ayes have it.

Hon. W. McKeeva Bush: Can I have a Division?

The Chairman: Madam Clerk.

The Clerk:

Division No. 11 /02

Ayes: 7

Hon. W. McKeeva Bush
Hon. Linford A. Pierson
Hon. James M. Ryan
Hon. George A. McCarthy
Mr. Rolston Anglin
Mr. Lyndon L. Martin
Mr. V. Arden McLean

Noes: 3

Mr. A. M. McLaughlin, Jr.
Ms. Edna M. Moyle
Mr. V. Arden McLean

Absentees: 7

Hon. Roy Boddén

Hon. Gilbert A. McLean
Dr. the Hon. Frank S. McField
Hon. David F. Ballantyne
Capt. A. Eugene Ebanks
Mr. D. Kurt Tibbetts
Mr. Anthony S. Eden

The Chairman: The results of the Division: 6 Ayes, 3 Noes and 7 Absentees. New Clause 9 agreed by majority.

Hon. W. McKeeva Bush: Mr. Chairman, before we leave Committee, can I say to Members that we need to go into Finance Committee for several matters; some Members are not going to be here. I was told by Mr. Anthony Eden that he would be here tomorrow morning, but I think the other four Members on the other side leave early tomorrow morning for Miami to get to London and will not be here. I wonder whether Members want to work this afternoon to go through that agenda or whether they are content that we can do this tomorrow.

The Chairman: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Mr. Chairman, we are not content to do either, as the Honourable Leader of Government Business well knows and has known for some time. We have to be at the airport at 6 o'clock tomorrow morning. We all have things to do, and I must also register our staunchest possible opposition to Finance Committee convening and dealing with important matters in the absence of the entire Opposition. But the Government will have its way, they will do what they have to, and we will have to deal with them when we return.

Hon. W. McKeeva Bush: Mr. Chairman, I am sorry that the Member takes it that way. As I said, we can deal with that this afternoon. They are here.

[Inaudible interjection by Member of the House]

Hon. W. McKeeva Bush: Well, all of us have things to do. We leave tomorrow as well. Nonetheless, we have to get this work done; Government has to go on.

I am sorry, Mr. Chairman, that we need to get to this point with Finance Committee, but there are matters that need to be accomplished. If we do not we will fall behind before the year end, and although the Opposition cannot be here tomorrow, at least one said he would be unless they has changed as well. I am in the hands of Members as to whether we go ahead this afternoon or whether we go ahead in the morning at 9.30.

The Chairman: Honourable Members, we still have the title for the Marine Conservation Bill, so if we could deal with that and conclude.

[Inaudible talk]

The Clerk: A Bill to amend the Marine Conservation Law (2002 Revision) and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: The Title passed.

Hon. W. McKeeva Bush: Mr. Chairman, I think we could finish with Finance Committee in an hour if Members are agreeable. I hear what the Second Elected Member for George Town has said but he never wants to do anything that the Government proposes. He has plainly said that he is Opposition, that is what he is, and he thinks that means opposing everything.

[Pause]

The Chairman: Is it the wish of Members to try to complete the Third Readings when the House resumes?

Ms. Edna M. Moyle: Mr. Chairman, you would have to do the Reports on the Third Readings. I can stay for that, but I have a meeting in North Side at 7 o' clock that I have to get to and deal with before I leave tomorrow morning.

The Chairman: Would we want to complete the Reports and the Third Readings? That concludes business and Committee. The question is that Bills be reported to the House.

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

Ayes.

The Chairman: The Ayes have it. The House will resume.

Hon. W. McKeeva Bush: Mr. Chairman, in the meantime, I will talk to the Honourable Financial Secretary to see whether he would agree to defer the papers until Monday, 16 December.

House Resumed

REPORTS ON BILLS

The Deputy Speaker: Proceedings are resumed. The Report on The Marine Conservation (Amendment) Bill, 2002.

The Honourable Minister for Tourism.

The Marine Conservation (Amendment) Bill, 2002

Hon. W. McKeeva Bush: Mr. Speaker, I have to report that a Bill entitled The Marine Conservation (Amendment) Bill, 2002 was taken to Committee stage and passed with an amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Development and Planning (Amendment) (No. 3) Bill, 2002

The Deputy Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I have to report that a Bill entitled The Development and Planning (Amendment) (No. 3) Bill, 2002 was considered by a Committee of the whole House and passed without amendment.

The Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Electricity (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Minister for Communication and Works.

Hon. Linford A. Pierson: Mr. Speaker, I have to report that a Bill shortly entitled The Electricity (Amendment) Bill, 2002 was considered by a Committee of the whole House and was passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Stamp Duty (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I have to report that a Bill entitled The Stamp Duty (Amendment) Bill, 2002 was considered by a Committee of the whole House and passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Companies (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I have to report that a Bill entitled The Companies (Amendment) Bill, 2002 was considered by a Committee of the whole House and passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Exempted Limited Partnership (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I have to report that a Bill entitled The Exempted Limited Partnership (Amendment) Bill, 2002 was considered by a Committee of the whole House and was passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Immigration (Amendment and Validation) Bill, 2002

The Deputy Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Mr. Speaker, I have to report that a Bill entitled The Immigration (Amendment and Validation) Bill, 2002 was considered by a Committee of the whole House and was passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Health Practice Bill, 2002

The Deputy Speaker: The Honourable Minister for Health.

Hon. Gilbert A. McLean: Mr. Speaker, I have to report that a Bill entitled The Health Practice Bill, 2002 was considered by a Committee of the whole House and was passed with amendments.

The Deputy Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Companies (Amendment) (No. 2) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I have to report that a Bill entitled The Companies (Amendment) (No. 2) Bill, 2002 was considered by a Committee of the whole House and was passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for a Third Reading.

The Public Holidays (Amendment) Bill, 2002

The Deputy Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Mr. Speaker, I have to report that a Bill entitled The Public Holidays (Amendment) Bill, 2002 was considered by a Committee of the whole House and was passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for a Third Reading.

Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I have to report that a Bill entitled The Holding Companies Share Transfer Tax (Amendment) Bill, 2002 was considered by a Committee of the whole House and was passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for a Third Reading.
The Honourable Minister for Planning.

Suspension of Standing Order 47

Hon. Linford A. Pierson: Mr. Speaker, I wish to move the suspension of Standing Order 47 to allow for the Third Readings of The Public Holidays (Amendment) Bill, 2002 and the Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002.

The Deputy Speaker: The question is that Standing Order 47 be suspended to allow for the Third Readings of the named Bills.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Standing Order 47 suspended to allow The Public Holidays (Amendment) Bill, 2002 and The Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002 to be read a third time.

THIRD READINGS

The Marine Conservation (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Minister of Tourism.

Hon. W. McKeeva Bush: Mr. Speaker, I move that a Bill for a Law to Amend the Marine Conservation Law 2002 (Revision); and for Incidental and Connected Purposes, as amended, be given a Third Reading.

The Deputy Speaker: The question is that a Bill shortly entitled The Marine Conservation (Amendment) Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Marine Conservation (Amendment) Bill 2002 read a third time and passed.

The Development and Planning (Amendment) (No. 3) Bill, 2002

The Deputy Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I move that a Bill shortly entitled The Development and Planning (Amendment)(No.3) Bill, 2002 be given a Third Reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled The Development and Planning (Amendment)(No. 3) Bill 2002, be given a Third Reading and passed.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Development and Planning (Amendment)(No. 3) Bill 2002 read a third time and passed.

The Deputy Speaker: The Honourable Minister for Planning.

The Electricity (Amendment) Bill, 2002

Hon. Linford A. Pierson: Mr. Speaker, I move that a Bill shortly entitled The Electricity (Amendment) Bill, 2002 be given a Third Reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled the Electricity (Amendment) Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Electricity (Amendment) Bill, 2002 read a third time and passed.

The Stamp Duty (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I move that a Bill entitled The Stamp Duty (Amendment) Bill, 2002 be given a Third Reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled The Stamp Duty (Amendment) Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Stamp Duty (Amendment) Bill, 2002 read a third time and passed.

The Companies (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I move that a Bill entitled The Companies (Amendment) Bill, 2002 be given a Third Reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled the Companies (Amendment) Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Companies (Amendment) Bill, 2002 read a third time and passed.

The Exempted Limited Partnership (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I move that a Bill entitled The Exempted Limited Partnership (Amendment) Bill, 2002 be given a Third Reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled the Exempted Limited Partnership (Amendment) Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Exempted Limited Partnership (Amendment) Bill, 2002 read a third time and passed.

The Immigration (Amendment and Validation) Bill, 2002

The Deputy Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Mr. Speaker, I move that a Bill entitled The Immigration (Amendment and Validation) Bill, 2002 be given a Third Reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled The Immigration (Amendment and Validation) Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Immigration (Amendment and Validation) Bill, 2002 read a third time and passed.

The Health Practice Bill, 2002

The Deputy Speaker: The Honourable Minister of Health.

Hon. Gilbert A. McLean: Mr. Speaker, I move that a Bill entitled The Health Practice Bill, 2002 be given a Third Reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled The Health Practice Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Health Practice Bill, 2002 read a third time and passed.

The Companies (Amendment) (No. 2) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I move that a Bill entitled The Companies (Amendment)(No.2) Bill, 2002 be given a Third Reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled The Companies (Amendment)(No.2) Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Companies (Amendment)(No.2) Bill, 2002 read a third time and passed.

The Public Holidays (Amendment) Bill, 2002

The Deputy Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Mr. Speaker, I move that a Bill entitled The Public (Amendment) Bill, 2002 be given a Third Reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled The Public Holidays (Amendment) Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Public Holidays (Amendment) Bill, 2002 read a third time and passed.

Land Holding Companies Share Transfer Tax (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that a Bill entitled The Land Holding Company Share Transfer Tax (Amendment) Bill, 2002 be given a Third Reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled The Land Holding Company Share Transfer Tax (Amendment) Bill, 2002 be given a Third Reading and passed.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Land Holding Company Share Transfer Tax (Amendment) Bill, 2002 read a third time and passed.

GOVERNMENT BUSINESS

MOTIONS

GOVERNMENT MOTION NO. 9/02

The Development and Planning (Amendment) (Extension of Temporary Provisions) Regulations, 2002

Hon. W. McKeeva Bush: Mr. Speaker, so that Members will know, there are two items left under Government Business which will take less than five minutes to do and we are going to try to complete that. Also on the Private Members' Motion which was deferred this morning, we are going to take them because they are not going to take any debate. One will be withdrawn and I think the other one is—

[Inaudible interjection by Member of the House]

The Deputy Speaker: The Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I beg to move Government Motion No. 9/02, The Development and Planning (Amendment) (Extension of Temporary Provisions) Regulations, 2002. It reads as follows—

“WHEREAS section 45(1) of the Development and Planning Law (1999 Revision) provides that the Governor-in-Council may make regulations;

“AND WHEREAS section 45(3) of the said Law provides that no regulations shall be made pursuant to the said Law unless a draft thereof has been laid before the Legislative Assembly and a resolution approving the draft has been passed by the Legislative Assembly;

“AND WHEREAS the draft Development and Planning (Amendment) (Extension of Temporary Provisions) Regulations 2002 were laid on the Table of this Honourable House on Monday 2 December 2002;

“BE IT NOW THEREFORE RESOLVED THAT the draft Development and Planning (Amendment) (Extension of Temporary Provisions) Regulations, 2002 be approved by the Legislative Assembly in accordance with the provisions of section 45(3) of the Development and Planning Law (1999 Revision).”

Mr. Speaker, I have already spoken on this when I was dealing with the regulations and do not propose to speak further.

The Deputy Speaker: The Motion is open for debate. Does any other Member wish to speak? Does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

Hon. Linford A. Pierson: Mr. Speaker, only to thank all Honourable Members for their tacit support of this Motion.

The Deputy Speaker: The question is that— BE IT NOW THEREFORE RESOLVED THAT the draft Development and Planning (Amendment) (Extension of Temporary Provisions) Regulations, 2002 be approved by the Legislative Assembly in accordance with the provisions of section 45(3) of the Development and Planning Law (1999 Revision).

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Government Motion 9/02 is duly passed.

GOVERNMENT MOTION NO. 10/02

Amendment to the Development Plan, 1997

The Deputy Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: Mr. Speaker, I wish to move Government Motion No. 10/02, Amendment to the Development Plan, 1997, which reads as follows—

“WHEREAS In April 2002, the Central Planning Authority received an application for the rezoning of:- Registration Section, George Town South, Block 14D Parcels 82, 84, 89, 90, 134, 154, 377, 407, 417, 418 from Medium Density Residential to Neighbourhood Commercial.

“AND WHEREAS at a meeting of the Central Planning Authority dated 19th June 2002 the Authority resolved to proceed with the amendment to the Plan, to wit: to change the zoning of Block 14D Parcels 82, 84, 89, 90, 134, 154, 377, 407, 417, 418 from Medium Density Residential to Neighbourhood Commercial.

“AND WHEREAS in accordance with Section 14(2) of the Development and Planning Law, public Notices of Authority’s intention to amend the Plan, were published in the *Caymanian Compass* on 31st July, 2nd, 7th, and 9th August 2002 and further in accordance with section 14(3(a) the proposed amendments were on public display at the Planning Department from 31st July through 9th October 2002.

“AND WHEREAS no objections were received within the statutory period of two months.

“BE IT NOW THEREFORE RESOLVED THAT in accordance with Section 13 of the Development and Planning Law (1999 Revision), the Central Planning Authority hereby recommends and submits to the Legislative Assembly the following proposal for alteration to the Development Plan 1997, a summary and map is attached hereto, and the Legislative Assembly hereby makes the following alterations, additions and amendments to the Development Plan 1997 in accordance with the said summary and maps, which shall come into force seven days after the passing of this resolution.

“AND BE IT NOW THEREFORE RESOLVED THAT Registration Section George Town South, Block 14D Parcels 82, 84, 89, 90, 134, 154, 377, 407, 417, 418 be rezoned from Medium Density Residential to Neighbourhood Commercial.”

Thank you, Mr. Speaker.

The Deputy Speaker: The Motion is open for debate. Does any other Member wish to speak? Does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

Hon. Linford A. Pierson: Mr. Speaker, only to thank all Honourable Members for their tacit support of this Motion.

The Deputy Speaker: The question is that— BE IT NOW THEREFORE RESOLVED THAT in accor-

dance with Section 13 of the Development and Planning Law (1999 Revision), the Central Planning Authority hereby recommends and submits to the Legislative Assembly the following proposal for alteration to the Development Plan 1997, a summary and map is attached hereto, and the Legislative Assembly hereby makes the following alterations, additions and amendments to the Development Plan 1997, in accordance with the said summary and maps which shall come into force seven days after the passing of this resolution.

AND BE IT NOW THEREFORE RESOLVED THAT Registration Section George Town South, Block 14D Parcels 82, 84, 89, 90, 134, 154, 377, 407, 417, 418 be rezoned from Medium Density Residential to Neighbourhood Commercial.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Government Motion 10/02 duly passed.

OTHER BUSINESS

PRIVATE MEMBERS’ MOTIONS

PRIVATE MEMBER’S MOTION NO. 4/02

Livestock Animals in Residential Areas *(Withdrawn)*

The Deputy Speaker: The Second Elected Member for West Bay.

Mr. Rolston Anglin: Thank you, Mr. Speaker. Under Standing Order 24(14) I hereby give notice to withdraw Private Members’ Motion 4/02, which reads—

“BE IT RESOLVED THAT the Government consider taking the necessary steps to resolve the longstanding problem of livestock animals being kept for commercial purposes in residential areas.”

The Deputy Speaker: Is there a Seconder?

Mr. Lyndon L. Martin: Yes, Mr. Speaker, I am happy to second that Motion.

The Deputy Speaker: The question is that Private Members’ Motion No. 4/02 be hereby withdrawn.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Private Members' Motion No. 4/02 is hereby withdrawn.

PRIVATE MEMBERS MOTION NO. 5/02

Limited Liability Partnership Legislation

The Deputy Speaker: The Second Elected Member for West Bay.

Mr. Rolston Anglin: Mr. Speaker, I would like to move Private Members' Motion 5/02, which reads—

“BE IT RESOLVED THAT the Government consider taking the necessary steps to implement a Limited Liability Partnership Law in the Cayman Islands.”

The Deputy Speaker: Is there a Seconder? Second Elected Member for Cayman Brac and Little Cayman.

Mr. Lyndon L. Martin: Thank you, Mr. Speaker, I am happy to second that Motion.

The Deputy Speaker: The question is that BE IT RESOLVED THAT the Government considers taking the necessary steps to implement a Limited Liability Partnership Law in the Cayman Islands. The Motion is open for debate. Does any Member wish to speak thereto?

Mr. Rolston Anglin: Thank you, Mr. Speaker. This is as plain and non-controversial, I think, a Motion as will probably ever be brought to this Legislative Assembly.

Mr. Speaker, this Motion seeks to get Government's implementation of a Limited Liability Partnership Law. This is a necessary and useful piece of legislation in the Cayman Islands, in particular for firms in the financial services industry, mainly accounting firms and law firms. It provides them with a very useful way in which to organise themselves and to operate.

This is the way that the rest of the world has gone for many years now, and I think this type of legislation is long overdue in the Cayman Islands. I look forward to the substantive Bill that will be forthcoming and I would just like to thank all Members in advance for their support.

The Deputy Speaker: Does any other Member wish to speak? The Honourable Third Official Member.

Hon. George A. McCarthy: Thank you, Mr. Speaker. In rising to speak to this Motion, I should say that the Government has no difficulty with accepting this Motion which is to consider the introduction of a Limited Liability Partnership Law.

The Limited Liability Partnership is a common form available among other jurisdictions, the United States and in the United Kingdom, particularly under the Limited Liability Partnership Act of 2000.

It is probable that both domestic professional firms and the Cayman International Financial Services clients would find a Limited Liability Partnership form to be quite attractive. In consideration of the value of introducing such a Law, as normal the Government will seek the input of our financial industry.

With this the Government is quite happy to support this Private Members' Motion.

The Deputy Speaker: Does any other Member wish to speak?

Hon. W. McKeeva Bush: No, we want to go home now.

The Deputy Speaker: If not, does the Mover wish to exercise his right of reply?

Hon. W. McKeeva Bush: No.

Mr. Rolston Anglin: Thank you, Mr. Speaker.

[Laughter]

Mr. Rolston Anglin: I think this is probably the fastest a Private Members' Motion has moved through this House, and I would just like to remind my Honourable colleagues that I did hold my promise of keeping my debate under 5 minutes. I would also like to give the Limited Liability Partnership Act 2000 to the Honourable Financial Secretary as I do have a copy of it. I thank all Members for their tacit support.

The Deputy Speaker: The question is that BE IT RESOLVED THAT the Government considers taking the necessary steps to implement a Limited Liability Partnership Law in the Cayman Islands.

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

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Private Members' Motion No. 5/02 passed.

The Deputy Speaker: That concludes the Business on the Order Paper. Could I have a motion for the adjournment?

Hon. W. McKeeva Bush: Mr. Speaker, in regards to the matter of Finance Committee, the Honourable Financial Secretary agrees that he can deal with the matters on 16th December at 9.30 am.

It has been a very long meeting, but we have accomplished much in this Budget Meeting. Tremendous good has been accomplished for the country and we want to thank everyone who assisted in the day-to-day running of this Legislative Assembly. At times, we certainly got off to late starts, but that is because everyone is so busy. Ministers are trying to do four and five jobs at a time and fellow Members of the House also have constituent tasks to perform and, at the same time, try to get this work done. It was difficult at times getting quorums, and both sides are going to have to make a better effort to get the House started on time. I would ask the Opposition to try not to be contentious on this move for the adjournment. Please agree with something.

Mr. Speaker, as I said I think much good has been done for this country and this meeting, and I want to thank all my colleagues and thank the staff of this Assembly, and even thank the Opposition for their agreement sometimes. I will say to them though, since they are out there chattering away, they do have an obligation to be here in their seats even if the Government side does not have our Members. They should not stand outside, wait and refuse to come in because all Government Members are not here. We have to run this Legislative Assembly together and, please, in the New Year come back with a different attitude from that one.

Retirement of Mr. Cline Astor Glidden, Cert. Hon. Serjeant-at-Arms

Mr. Speaker, today is also a very momentous day for the Serjeant, in that after many years at sea and many years of great service to this country as Serjeant of this Honourable Legislative Assembly, today is his last day for service in the Chamber as Serjeant. He retires at the end of the year.

I do recall the very first time that the job was advertised. I believe at the time the late Mr. Radley Gourzong was acting as the Serjeant-at-Arms. He had finally taken his retirement and has now gone on to his eternal reward. Then I recall when the Serjeant took up his duties, and I must say that it was pleasant to have him as our colleague as he always displayed his job in a fair, unbiased and courteous manner.

I certainly want to thank him for this aspect of his service to this country on behalf of all Government Members, in fact the whole House, and I wish him a happy retirement. I do not think he will be retired at all. I know he will find a tremendous amount to do in the community, as I am sure he will be continuing his hard work at his church, the Seventh Day Adventist Church in West Bay. Certainly I know I will see him somewhere about on the iron shore at times around his house. We certainly wish him and his good wife a very happy retirement.

To all Members and their families indeed I wish a very happy and Merry Christmas and prosperous

New Year, and we pray Almighty God's blessing on this country in the coming year.

The Deputy Speaker: Second Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you Mr. Speaker. I wonder if I might have the option to say a few words on this occasion.

The Deputy Speaker: You may proceed.

Mr. Alden M. McLaughlin, Jr.: Mr. Speaker, on behalf of the Opposition let me say that we are very sad to learn that today is Mr. Glidden's last day in the Chamber as our Serjeant-at-Arms. I have only been here for two years, but I have grown very fond of Mr. Cline Glidden in those two years. Through some very difficult times he has always conducted himself with decorum, courtesy, kindness and a great deal of dignity. It has been a tremendous pleasure and honour to have him serve as Serjeant-at-Arms in the two years that I have been here. On behalf of all Members of the Opposition, I wish to convey to him best wishes for a happy, long and healthy retirement. It is quite fitting, Mr. Speaker, that you, as his son, are sitting in the Chair on this particular occasion when we say goodbye to your father as Serjeant-at-Arms in the Legislative Assembly of the Cayman Islands.

I also take the occasion on behalf of the Opposition to wish all Honourable Members and all the staff of the Legislative Assembly a happy Christmas and a prosperous New Year. I also am aware that we travel by different means and at different times to London tomorrow for the purpose of undertaking very important business of the constitutional talks. I pray God's richest blessing and guidance on all of us who have to partake in those talks, and I hope that we can come back to Cayman with agreements which really represent what is in the overall best interest of the Cayman Islands, not just for now but in the long-term.

With those few words, Mr. Speaker, thank you very much.

The Deputy Speaker: The Honourable First Official Member.

Hon. James M. Ryan: Thank you, Mr. Speaker. I rise on behalf of my colleagues, the Honourable Second Official Member who is not here but I know he would want me to, the Honourable Third Official Member who is here, as well as myself, to join other speakers in expressing our deep gratitude and sincere thanks to Mr. Cline Glidden as he retires from his work here as Serjeant-at-Arms of the Legislative Assembly.

I cannot think of another individual I have come into contact with in this country who displays the courtesy and the very warm feeling of respect that I have seen from Mr. Glidden. There are days in the

Glass House when things are not going well, but Mr. Cline comes by the office with a smile and always a cheerful word, and that is enough to cheer up anybody and I have to personally thank him for that. I have to thank him for sharing his friendship and his caring attitude with me. I believe with everyone here, and indeed wherever he goes, he exemplifies the true Christian and a gentleman of no small order.

On behalf of the Official Members, I would like to wish Mr. Cline a very happy, long and enjoyable retirement. I am not sure who will be filling his shoes, but whoever does has a big pair of shoes to fill. Mr. Cline is every bit a gentleman, and despite having to put up with all of us here and all of our idiosyncrasies he never fails to smile and I have yet to see him angry. I do not believe the man has it in him to be angry and I just thank you, Mr. Cline, and wish for you and your family God's richest blessings.

When your wife retired from the fourth floor of the Glass House, Mr. Glidden, there was a real vacancy. She too radiated that smile that you so readily offer us, and I miss her and now we are going to miss you. However, there comes a time when we all have to slow down a little and take life a little easier, and I am happy that you are going to do this, although I know you will stay busy as others have said. It is not in you to sit down in a rocking chair, but again, we wish for you all that is well.

I too wish for all Members going to the United Kingdom a safe journey. I do not envy any one of you having to cross the Atlantic, I never liked to do it, and I know it is not an easy trip. The task ahead of you is great, but I have every confidence that you will all go with the determination to put this country first, and I trust that on your return or in the near future we will be hearing good things as a result of your meetings in London.

Finally, on behalf of the other Official Members and myself, I wish for everyone here, including you, Mr. Speaker, the Clerk and all the staff of the Legislative Assembly, a very joyous Christmas which is fast approaching. I wish for all that is good for a bright and prosperous 2003, and we look forward, with God's help to seeing you back here in the New Year. I thank you, Mr. Speaker.

ADJOURNMENT

Hon. W. McKeever Bush: Mr. Speaker, I now move the adjournment on this Honourable House for a date to be fixed.

The Deputy Speaker: Before putting the motion, I too would like to take this opportunity on behalf of myself, the Speaker and our families to thank all Members of the House and the staff of the Legislative Assembly. Especially in the last few days myself, I really appreciated the indulgence given to me by all

Members and staff. I wish everyone a happy and Merry Christmas and a happy New Year.

I too would like to wish God's speed to all those Members travelling for the constitutional talks. I have every belief that we will be able to represent the wishes of our peoples and to achieve the goals that have been established. I look forward to a happy and prosperous New Year in working together with each and every one of you.

I too would like to express my appreciation to Mr. Glidden, Sr., my father, for his assistance in these two years. I will have more time than most of you to extend my well wishes, so I will do that at another stage.

At this time, the Speaker has also asked for me to extend best wishes and greetings to all her constituents in Grand Cayman, Cayman Brac and Little Cayman from her and the Second Elected Member for the district of Cayman Brac, as well as for all Members.

With that, the question is that the House now stand adjourn until a date to be decided.

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

Ayes.

The Deputy Speaker: The Ayes have it.

At 6.17 pm the House stood adjourned until a date to be decided.

OFFICIAL HANSARD REPORT
THURSDAY
19 DECEMBER 2002
12.40 PM
Ninth Sitting

The Deputy Speaker: I will invite the Honourable Minister for Education to grace us with Prayers.

PRAYERS

Hon. Roy Bodden: Let us pray.

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

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

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

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

Proceedings resumed at 12.42 pm

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

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

The Deputy Speaker: I have not received any messages or announcements for this morning.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**Report of the Standing Business Committee for
the Fourth (Budget) Meeting of the 2002 Session**

The Deputy Speaker: The Honourable Leader.

Hon. W. McKeever Bush: Madam Speaker, I beg to lay on the Table of this Honourable House the Report of the Standing Business Committee for the Fourth (Budget) Meeting of the 2002 Session.

The Deputy Speaker: So ordered.
Would you wish to speak thereto?

Hon. W. McKeever Bush: No, Madam Speaker.

The Deputy Speaker: Thank you.

**Report of the Standing Finance Committee
Meeting held 8 July 2002**

The Deputy Speaker: Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to lay on the Table of this Honourable House a report of the Standing Finance Committee for a meeting held on the 8 July 2002.

The Deputy Speaker: So ordered.
Does the Member wish to speak thereto?

Hon. George A. McCarthy: No, Madam Speaker.

**Report of the Standing Finance Committee
Meeting held 12 September 2002**

The Deputy Speaker: Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to lay on the Table of this Honourable House a report of the Standing Finance Committee of a meeting held on 12 September 2002.

The Deputy Speaker: So ordered.
Does the Member wish to speak on any of the remaining two items?

Hon. George A. McCarthy: No, Madam Speaker, because of the fact that the items set out in the Report

were exhaustively reviewed and discussed in Finance Committee.

The Deputy Speaker: Thank you.

Report of the Standing Finance Committee

Meeting held 16 December 2002

The Deputy Speaker: Honourable Third Official Member.

Hon. George A. McCarthy: Madam Speaker, I beg to lay on the Table of this Honourable House the Report of the Standing Finance Committee of a meeting held on 16 December 2002.

The Deputy Speaker: So ordered.

STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF THE GOVERNMENT

The Deputy Speaker: I have received notice of two statements by the Leader of Government Business and I now call upon him.

EU Tax Directive

Hon. W. McKeeva Bush: Madam Speaker, since I last provided an update to the Honourable Members on matters related to the European Union Draft Directive on the taxation of savings income, there have been several developments but little progress.

European Ministers of Finance met on Wednesday, 11 December 2002 and on Thursday, 12 December 2002 to attempt to work out a compromise which would allow them to keep to the deadlines specified in the Feira Accord which called for final agreement on the Savings Tax Directive prior to the end of December 2002. They were not successful in this regard and have agreed that they will meet again on the 21 January [2003] for further talks. It is anticipated that technical level discussions involving a number of the European Member States, the European Commission and Switzerland will continue in the interim.

Reports emerging from the meetings of the 11 and 12 of December indicate that as Switzerland has not agreed to introduce automatic exchange of information, or even full exchange of information upon request, several European Member States continue to refuse to endorse the package negotiated by the European Commission with Switzerland as equivalent to that which is being proposed for the European Member States.

We have also been informed that at that same meeting of the 11 and 12 December, the United Kingdom's Chancellor of the Exchequer again indicated that the United Kingdom would ensure that the Caribbean Overseas Territories would apply the automatic

exchange of information. There are reports which indicate that the Chancellor indicated that the UK's dependent territories would implement the Savings Directive from the 1 January 2004 if the Directive is adopted by the European Union.

Madam Speaker, the most glaring, uncaring and unforgiving, in my opinion, aspect of this whole matter is the fact that the European Union and the United Kingdom, in fact, have constantly talked to the territories in regards to sustainable development and they have told us to be ready for changes but they have not offered any assistance of any kind as far as sustainable development is concerned.

Madam Speaker, even the Turtle Farm, which we held out some hope for, they have not helped to become a trading institution. So, they need to start putting their actions, money, minds, and assistance where their mouth is. Because sustainable development could mean the Turtle Farm's assistance, yet that is not forthcoming from Europe nor from the United Kingdom.

The Government has by letter to the European commission, confirmed that it questions the legitimacy of efforts to compel the Caribbean Overseas Territories to go along with the Savings Directive. By that same letter we have reiterated our desire for discussions with the European Commission in this regard.

As I previously noted, the United Kingdom's Chancellor of the Exchequer is understandably looking out for his own interests and those of his political constituency in the United Kingdom's financial services industry, rather than the interests of the Caribbean Overseas Territories.

The Caribbean Overseas Territories are left to defend our own interests in this regard. The Territories have repeatedly indicated to the United Kingdom that while they can understand the value of the Savings Directive to the United Kingdom, and they remain willing to discuss matters related to the European Union's tax package, such discussions can only move forward in a direction and in a context which safeguards the interests of the peoples of the Caribbean Overseas Territories.

There can be no doubt that all European Member States including the UK, also have obligations, both national and international, to take into consideration the interest of the Caribbean Overseas Territories. Based on those obligations, the Cayman Islands have legitimate concerns which relate to the legality and fairness of the Feira Accord and its practicality. The Cayman Islands have legitimate expectations that any process and outcome adopted by the European Union, in regard to the Savings Directive, will comply with European Union and international law.

Madam Speaker, any application of the Savings Directive in the Cayman Islands, but not by our competitors, is very likely to be disproportionate in its own cost to the Cayman Islands and ineffective. The

United Kingdom has done a regulatory impact assessment in respect of the implementation of the Savings Directive in the UK when it was proposed for them and is well aware that there would be significant costs to both private sector operators and public sectors associated with implementing the Savings Directive. The same would certainly be true in the Cayman Islands as well, however, neither the UK nor the European Union have been able to provide any information which would indicate that if the Cayman Islands is obliged to adopt the Savings Directive that any additional tax revenues will be obtained by the European Union Member States as a result. There is no basis and established fact for the discriminatory inclusion of the Cayman Island in the Feira Accord.

Madam Speaker the Feira Accord clearly discriminates among overseas countries and territories, in that, only certain overseas countries and territories are intended to be burdened by the Savings Directive. And by way of example, the United Kingdom knowingly excluded Bermuda which is a competitor of the Cayman Islands from the Draft Directive.

As I have said before, the Cayman Islands is not interested in protecting tax evaders. If the automatic exchange of information was an international standard or if it were to be adopted by all countries at the same time the situation could be different. However, we cannot subscribe to legislation or policy which is being created in Europe without any representation for our people and which is designed to cripple our ability to be self-sufficient and to take jobs from our people and give them to our competitors. That is what would be the result of any implementation of the Savings Directive.

We have told the United Kingdom that the Government cannot stand by and allow the Cayman Islands to be the victim of this illegitimate process or outcome. Neither can we condone the Cayman Islands assuming substantial discriminatory and disproportionate burdens on behalf of the European Union Member States without any form of consultation, consideration or compensation.

The Government is very concerned that the displacement or out-burdening by the European Union of tax enforcement burdens to the Cayman Islands and other colonies which receive no benefit from the European Union distorts economic competition, particularly when the European Union is offering much less onerous burdens together tied to substantial economic benefits to other countries such as Switzerland. Many jurisdictions including the Bahamas, Barbados, Hong Kong and Singapore, all of which are materially in competition with the Cayman Islands are not being asked to adopt the European tax package, and would stand to gain a competitive advantage if the Cayman Islands were obliged to implement the Savings Directive.

The European commission has accepted that in the case of Switzerland that automatic exchange of information is not required. This is understood to be

the basis on which negotiations with Switzerland are now proceeding despite the fact that this option has not been offered to the Caribbean Overseas Territories. Further, it has now become apparent that Switzerland together with several other European Member States which have banking secrecy, including Austria, Belgium and Luxemburg, are being offered the prospect of not having to comply with the OECD Harmful Tax competition project until at least five years after the Caribbean overseas territories are being expected to comply as an inducement to encourage those European countries to go along with a modified form of the Savings Accord.

Madam Speaker, the whole thing, as far as I am concerned, is a sham on the part of those in Europe and the Chancellor of the Exchequer. They want to do nothing but to destroy the economies in the overseas territories. It is clear that if this extremely discriminatory approach is adopted by the European Union then part of the compensation being offered by the European Union to Switzerland, Austria, Belgium and Luxemburg, as an enticement to adopt less onerous equivalent measures will be capital and jobs moving from the Caribbean overseas territories including Cayman, and most of all Cayman, to those European countries. Perhaps this is what they want. What else could it be?

The Cayman Islands remain committed to dialogue with the United Kingdom and the European Union on these matters and have repeatedly requested the convening of a process to resolve these issues in a fair and equitable manner.

Given all that I have said, Madam Speaker, the position which the Government sees as best protecting the interest of our people is to maintain the position adopted to this point by the Caribbean overseas territories which is to indicate that the level playing field and other issues must be resolved prior to the provision by the Cayman Islands of any reassurances.

Madam Speaker, the reassurance that we give the Chancellor of the Exchequer today is that we are not bending to his wishes.

Constitutional Modernisation

Madam Speaker, the other statement that I wish to make is in connection with the constitutional modernisation and the visit, and meetings to London. We have just returned from our meetings in London with representatives from the Foreign and Commonwealth Office. The Government which represents the United Democratic Party and the Opposition, the People's Progressive Movement, as well as two representatives from the private sector, one having to leave before the meeting started due to a most unfortunate accident and we extend condolences to that family. *(Pause)*

Madam Speaker, the meeting was arranged by the Foreign and Commonwealth Office and represented a further step in the continuing efforts towards

modernisation of the Cayman Islands Constitution, following the review done by the Constitutional Commissioners. As this is a matter of utmost importance to our Islands, as Leader of Government Business, I now put forward a report on the meeting on the way forward for the Cayman Islands.

The delegation from the Cayman Islands met with the Foreign and Commonwealth Office representatives, including the Chairman, Mr. Ian Henry and Mr. Alan Huckle, Head of the Overseas Territories Department. These meetings provided the opportunity for both the United Democratic Party and the Opposition to put forward their positions on the proposed changes to the Constitution and to get feed back from the Foreign and Commonwealth Office.

Madam Speaker, the representatives of the Foreign and Commonwealth Office have indicated that they accept the Report of the Constitutional Commissioners and that they were generally satisfied that there was wide consultation with the various sectors of society. They have also pointed to the controversy within the constitutional debate but acknowledged that such is a natural part of the process, given that the Constitution is a most important document.

The Foreign and Commonwealth Office has commended the Government and the PPM for getting together in the recent summit between the two Parties and reaching consensus on the major contentious issues of the Constitutional Commissioners' Report. This, Madam Speaker, you will recall was a meeting arranged by me for that same purpose prior to our trip to London. In my presentation to the Foreign and Commonwealth Office I made it quite clear that any debate regarding constitutional modernisation for the Cayman Islands must take into account the financial sovereignty of the Cayman Islands and recognise the fact that these Islands have never been grant-aided by the United Kingdom.

I, therefore, made the request that they include in the Draft Constitution a clause to the effect that the United Kingdom Government should not have control of our financial affairs through Orders in Council, that is, the Privy Council, or by legislation in the Commons. My statement to the Foreign and Commonwealth Office in this regard requested commitment from Her Majesty's Government on two main points:

1. That the Governor should be required to consult with Executive Council on the exercise of any powers that would affect our financial future in advance rather than inform them when there are financial implications.

2. That there should be some form of obligation on Her Majesty's Government not to commit to Cayman Islands on external affairs matters, liable to affect the Islands' economy without prior consultation through the Governor, or an obligation to the Governor, to ascertain and advise of impending Her Majesty's Government action.

I cannot say here that this request will be granted by the UK; however, it is of paramount importance to the financial industry of these Islands. That request, Madam Speaker, as you might recall, was ably carried forward in the first half of the meeting by the Attorney General.

In short, what the United Democratic Party Government is seeking is the establishment of rules of accountability for the British Government which enable us in the Cayman Islands to be satisfied about due process and not high-handedness such as the threats on the European Union Tax Savings Initiative, and any debate, talks or discussions in regards to our constitutional order should include these provisions.

Further, Madam Speaker, we have asked that the new draft Constitution should include the preamble contained in the United Democratic Party's Position Paper on the Constitution, which speaks to the unique social and cultural identity of the Cayman Islands, and that this is not ignored when the Constitution is being interpreted by the Courts.

We were successful also, Madam Speaker, in getting the following provisions included which the churches requested and which are included in the United Democratic Party's Position Paper that: "If a court's determination of any question arising under this section might affect the exercise by a religious organisation, itself or its members, of the constitutional right to freedom of thought, conscience and religion, it must have regard for the importance of that right." As I said, this particular clause was requested by the church and is contained in the UDP's Position Paper.

The deliberations in London further cemented the consensus that had been achieved locally on some of the more controversial issues from the Draft Constitution. Again, I want to stress that in the interest of reconciliation, national consensus and for the good of the Cayman Islands, particularly at this time, when perhaps more than at any other time we need to stand united against certain external threats, the Government changed its position on several key points.

This spirit of reconciliation and consensus, however, was not reciprocated by the PPM Opposition. Nonetheless, we press on trying to build consensus for the greater good of the Cayman Islands. To this end I have met, since returning, with a number of NGOs to inform them about the way forward on the Constitution as I had promised before I left for London.

Madam Speaker, the Leader of the Opposition in his statement to the *Caymanian Compass* on Monday seem to be rejoicing that HMG has no fixed time line for implementation of the Constitution. But we shall see what we shall see. This is downright misleading and is meant to score political points rather than forthrightly inform the public. What has been agreed with the Foreign and Commonwealth Office in those meetings is that the Foreign and Commonwealth Office will send to the Cayman Islands between the 15th and the

end of January 2003 a package which will contain a draft constitution for further debate and an interim Order in Council. The Order in Council will:

(1) Establish the Boundaries Commission that will create the 17 single-member constituencies within the six electoral districts to allow for one person, one vote, in the 2004 elections.

(2) It will give constitutional authority to the Leader of Government (Chief Minister) and the Leader of the Opposition which is necessary prior to the establishment of the Boundaries Commission as they each appoint one member to the three-person Boundaries Commission.

(3) To provide for a change in the nomenclature of Executive Council to Cabinet.

Madam Speaker, this Council Order clearly initiates implementation of some sections of the Constitution that are needed before 2004 and is in keeping with the United Democratic Party's position on partial implementation and complete implementation immediately following the 2004 elections with the exception of the Bill of Rights which would be included in the Constitution but not implemented until 2005 to give way for audits, training and changes in laws that would impact on the new Bill of Rights.

The Foreign and Commonwealth Office representatives have also noted that there should be further public consultation and comment on the Constitution, which the United Democratic Party supports. Everyone recognises that no draft constitution will satisfy everyone and that even a referendum gives no guarantee of total satisfaction.

Madam Speaker, on the matter of referendum let me report that the Foreign and Commonwealth Office has been at pains to point out that a referendum is not in keeping with the UK Government's tradition. Their concerns include whether the current provisions for a referendum are adequate and whether there is need for a people initiated referendum, as the Opposition has proposed, especially after the Leader of the People's Progressive Movement acknowledged and revealed that the type of people initiated referendum they were proposing would not be binding on any government. That was strange after that Party went the length and breadth of this country to say that referendum was the answer.

Madam Speaker, on the matter of holding a referendum now, the question still remains as to how necessary a referendum would be when there is agreement on the six issues that have been put forward as needing to be put to a referendum. Again, we must also bear in mind that the People's Progressive Movement commitment to the implementation of the Order in Council nullifies the need for a referendum on the question of a change to single member constituencies and one person [man] one vote, as they had plugged for in the last several months.

Madam Speaker, once we have received the draft Constitution the Government will propose a public consultation period of eight weeks to three months

and I give the public the assurance that the United Democratic Party will hold public meetings in each electoral district to consult with all the people. This is what we promised in the debate in this Honourable House and debates in public meetings in this country earlier this year. All other changes as exist in the recommendations by the Commissioners were agreed by the meeting with the exception of a no confidence vote. We expect that would be included in the recommendations from the Foreign and Commonwealth Office.

In any event I hope that by June 2003 we would have agreement by the United Kingdom on the new Constitutional order. I will then move a Motion in this Honourable House that will give ample opportunity for all elected representatives to debate the proposed Order in Council and the Constitution. I take this opportunity to implore the Opposition to do their duty this time and stay in this Honourable House and debate those recommendations.

Madam Speaker, there is now much more at stake for the Cayman Islands than the matter of constitutional modernisation. As an example, in a meeting at the ministerial level in London it was suggested to me that our constitutional modernisation could be tied to our acceptance of the European Union Savings Tax Directive. I made it clear that having won five elections under the present Constitution I can win again, and there would be no compromise on our position on the European Union Savings Tax Directive.

Madam Speaker, no offer from the United Kingdom Government would be enough for us to accept this directive that would destroy the economy of these Islands. As a government and as a country we must continue to fight any attempts by the United Kingdom to impose this initiative in the Cayman Islands and that is not something that the United Democratic Party is prepared to trade off for the Constitution or any other issue.

When the debate starts and when the recommendations come I implore all: let us move forward with this matter. We cannot have a Constitution hung in suspended animation for another two years. There must be a move forward. This matter has taken tremendous time of the Government, of the Opposition and everyone else, and there is no need to play politics with it. We now know what we want, we know what we have agreed on, there is no need to be coy, to play with words; there is no need to do any of those things. The Cayman Islands is worth more to us than winning any election or getting any post in any Cabinet. Let us be what we are supposed to be, that is, true representatives of the people first and foremost. And certainly they cannot hang on now to this aspect of a referendum, not after having said that it would not be binding.

Madam Speaker, I thank you and the House very much for your time.

The Deputy Speaker: The Honourable Minister responsible for Education

Report Card 2000 – 2002

Hon. Roy Bodden: Madam Speaker, I was away from the Island on official business when the Budget was debated, and there was a change in the modus operandi when we had the National Education Conference several weeks ago. I crave your attention as well as Honourable Members, as I read from the following Report.

The United Democratic Party believes that education must be for the Cayman Islands what Napoleon said the conscript army was for France, "the vitality of the nation".

So, it is with this in mind that I as Minister and representative of the Government now share with you and this Honourable House a report on the Education agenda as carried out for the past two years.

INTRODUCTION

November marked my second year as Minister responsible for Education. November 2001, at the National Education Conference, I delivered a policy statement on education entitled, "Education for the 21st Century Cayman Islands", which contained the things the Ministry hoped to accomplish and why. In keeping with the preferred evaluation model used in schools inspections, I thought I would carry out a self-evaluation of the work of my Ministry over the past two years, and let this Honourable House and the listening public know what has been accomplished and what remains to be achieved. (I would also say that this address is the address I had thought to give at this year's conference, but which I deferred so as to give the time to the Vice Chancellor of the University of the West Indies the Honourable Rex Nettleford, OM, FU). I should also add Mr. Vaughn Carter of the Cayman Islands Law School who was invited to give a lecture in Human Rights, as it relates to citizenship education. I would invite you to form your own opinion of whether I have achieved a passing grade.

In looking critically at both achievements and disappointments over this period, I would say that I have been fortunate to have inherited a Ministry which functions as a team, and which had in place the building blocks for the further development of the Government education system. With the foundation in place, and here I refer specifically to the Education Development Plan 2000-2004, it was my responsibility to further fine tune the policies and the programmes which would be established during my term of office.

In setting out the Government's education agenda I have been particularly cognizant of two things: Firstly, the need to align the education system with the changes taking place in our country, and indeed worldwide, and in the second place, my belief that education is a life long pursuit, and should be in-

tegrated and related to policies and programmes being developed simultaneously in the areas of employment and culture.

In keeping with Government's broad outcome goals I have chosen to focus, in particular on outcome 5, "a well educated and vocationally trained resident population". From this my Ministry developed five key goals which we are concentrating on over the political term 2000-2004. As outlined in my policy address to the National Education Conference last year, these are:

- a) *to promote and support school improvement,*
- b) *to strengthen the opportunities and quality of provision for teacher training,*
- c) *to improve information, communication and technology skills at all levels,*
- d) *to enhance the provision for technical and vocational education,*
- e) *to establish citizenship education as integral part of the curriculum at all levels of schooling.*

MISSION STATEMENT

In our work we are guided by the following mission statement: "The Mission of the Ministry of Education, Human Resources and Culture is to ensure that the legislative framework, policies and international standards utilized in relation to education, human resources and culture are effective, consistent and efficient in the development of the people of the Cayman Islands, and responsive to global development through academics, life-long education and skills development and a knowledge of the history of these Islands guided by our philosophy statement."

GUIDING PRINCIPLES

In January 2001 at our first retreat I met with all our Heads of Departments, Units and Sections and my administrative staff to agree and craft a statement of philosophy and guiding principles for the work ahead. We agreed that we would concentrate on developing written policies, emphasise the revision of needed legislation and utilize research and information technology as far as possible. We pledged to do this in the spirit of teamwork, having regard to both local and global developments, supporting national development through people in an atmosphere of tolerance, acceptance, respect and mutual understanding. We plan to hold our second retreat to review our accomplishments and consider the programme for the next two years in January 2003 prior to the preparation of the 2003/2004 Budget.

GOALS FOR 2000-2004

In November 2000, my Permanent Secretary and I were privileged to attend the 14th Commonwealth Education Ministers Conference held in Hali-

fax, Nova Scotia. During this time we discussed global issues with our colleagues, particularly colleagues from the other thirty-two small states. We agreed that small countries like ours are not simply scaled down versions of large countries, but that they require distinctive strategies for educational development. At this meeting we agreed the five goals referred to previously. These are the goals I wish to report on this morning and I hope that when I am called to report on our progress at the next meeting of Ministers, in December 2003, and ultimately to the electorate in 2004 I will be judged as providing the level of stewardship which our education services deserves to move the country boldly into the 21st Century.

A. To Promote and Support School Improvement

Overview of the Current Issues

Education Law

It has been a disappointment to me that we have not finalized the drafting instruction for a new education law. Legislative reform is a long and time-consuming process. Over the last two years the Ministry has had to make a choice as to which piece of legislation was more urgent. In this case, the new Employment Law has taken precedence. Thankfully, the drafting instruction for this legislation will go to Executive Council in the new year. The research and consultation on the Education Law has been done and I would hope to circulate the drafting instructions to schools and PTAs for comment during the first quarter of next year.

Policy Provision

Much discussion has taken place on the development of a written policy document for education. The policy statement which I delivered to the National Education Conference in November 2001 has been circulated to schools for comment and a policy framework has been agreed. In the Annual Budget Statement tabled in the Legislative Assembly in mid-November, the development of a National Education Policy document features prominently in the list of outputs to be delivered by my Ministry in the 2003 Half year. This has led some people to believe that the Ministry is operating without a policy.

I should like to clear up this misunderstanding today. A national education policy is a written statement which is officially endorsed (in our case by Executive Council) and widely recognized, elaborating in general terms how the nation's education system will contribute to meeting the major economic and social objectives decided on and pursued by our country. I referred to these in my preliminary remarks as the Government's seven broad outcomes.

We are now working on a policy document for Education which will present a coherent set of broad

policy measures and objectives as well as a strategy, that is, the ways and means of implementing them all. This document will take into account the agreed strategies of the National Education Plan but also any additional strategies, such as the new ITALIC programme, which have been agreed by the present political directorate.

The document will include a reference to the context in which Cayman finds itself and it will summarise what is referred to as the "education challenge". It will raise issues, such as the measurement of the performance of the education system, and will set broad objectives in terms what is to be achieved. This is directly compatible with the new format of the Annual Budget Statements and the Annual Plan and Estimates, as prescribed under the Financial Management Initiative (FMI) and the new Public Finance Law.

Restructuring of the Education Department

When I assumed responsibility for Education in 2000, I immediately made public the full findings of the Millet Report. As a result of the recommendations in this report, the Education Department has been restructured and we anticipate that the last post in the restructured department will be filled in January 2003. All job descriptions were re-written with the help of Hay Group in the summer of 2001.

Education Review (Millet Report)

The Education Department has submitted its action plans arising out of the Millet Report and they are now working on their corporate plan.

Inspection of Schools

In the first cycle of inspection of government schools is virtually complete. The second cycle will begin in 2003. Inspection of private schools by invitation has also been carried out. I would encourage other private schools to take advantage of the opportunity to have their schools inspected. I am pleased to say that two additional private schools have requested inspections next year and I commend these and other private schools that have already been inspected for their commitment to maintaining high educational standards.

Action Planning and Site Based Planning

All government schools have completed their site based plans. However, there is a need to align action planning arising from school inspections with site based planning related to the National Strategic Plan. Discussions continue as to how this can be done most effectively.

Expansion of Schools Inspectorate's Remit

This year the Schools' Inspectorate completed two general studies on literacy and special needs. The findings of these reports and the recommendations for action of the working groups studying these reports will contribute to the overall programme of school improvement. After consultation with the Board of Governors of the Community College, it is now agreed that other provisions for the quality control of tertiary education was more appropriate and less costly than using the Schools' Inspectorate. I have now established a tertiary education council made up of representatives of all tertiary education institutions in the Islands whose remit includes supporting each other in the maintenance of standards.

The Schools' Inspectorate is assisting the Education Council in framing guidelines for home-schooling and it is expected that a policy will be finalized and approved by the Council very soon.

Collection of Educational Statistics

This remains an area of weakness. At the present time the compilation of statistical reports for organizations such as United Nations Educational Scientific Cultural Organisation (UNESCO) and for our own planning purposes is time-consuming and somewhat unreliable. The "Star Based" record system purchased some years ago has never fulfilled its early promise and is in need of upgrading. I am particularly concerned about storage and retrieval of student records, a concern which will be addressed as part of the ITALIC programme.

The Ministry and the Education Department must be able to ensure that statistics, including tests data on pupils achievements informs planning and policy making at all levels.

The Schools' Inspectorate collects their own statistics which are relevant to their work. This week they published the first pilot audit of primary schools for the school year 2001. It tells for instance the percentage of primary school children absent on a particular day and also useful statistics, such as the ratio of computers to primary school students in the government system. Such figures will be useful in formulating measures for our output under FMI and for the development of policy.

Curriculum Review

We have put in a request to the Commonwealth Secretariat Fund for technical assistance to get some support on curriculum reform at the secondary level. At a meeting with the administrators of the fund in London earlier this year, I was assured that the size and scope of the project was within their means and we expect to be hearing shortly on the success of our application.

Restructuring of Secondary Education (Grand Cayman)

After much research and discussion, and because of physical, curricular and other constraints, I have decided to put the restructuring of the George Hicks and John Gray high schools into two full high schools on hold for the present time.

New Facilities

The shortage of school places is a major concern of the Government. The present policy is to keep our large primary schools to an enrolment of 500 and the size of primary classes to 25. There are a handful of classes with between 26 to 30 students, but this is by no means the norm. In such cases, every effort is made to assist the teacher by providing a teacher's aid, or support assistant, particularly in the infant's classes.

The building of the new primary school on government property off Poindexter Road in Spots, and new secondary school at Frank Sound remain a priority. The architectural brief for the new high school was completed in 2000 by a consulting architect specializing in school design and since the architectural brief was completed in 2000 it will now be reviewed in light of new programmes such as ITALIC.

This state of the art 21 Century school catering to approximately 840 children in the eastern districts will soon be ready to be put out for final design drawings and construction. At the present time we are projecting the new high school will be opened in 2005. Madam Speaker, I can add that agreement has already been made between the Government and the owner of a property for the purchase sum of this property and negotiations are well in hand.

It is hoped that with these two schools in place Government will be able to reverse the policy that expatriate children new to the Island must be accommodated in private schools.

To strengthen the opportunities and quality of provision for teacher training

Overview of Current Issues

School Leadership Programme

The National Education Leadership Programme is to be offered for credit through London University's Leadership Institute and is due to commence in March 2003. It is proposed that Government subsidises all costs for serving government principals and 50 per cent of costs for other senior staff.

Local Teacher Education

Individuals wishing to train as teachers can complete the initial two years to an Associate Degree

level at the Community College before transferring overseas to finish the last two years of teaching requirements leading to a Bachelor of Science Degree in Education. It is my fervent wish that when the Community College begins to offer four-year degree programmes that teaching qualification will be among the first offerings.

Match Training Courses To Needs

Last year I said that we would aim to establish policies and procedures to achieve a better match between current and future training courses and opportunities and identified national needs. The current leadership initiative addresses a need identified through school inspections. We will continue to ensure that cost-effective training which matches both personal development and a national need continues and we will take full advantage of scholarships and/or short courses being offered locally and by international agencies and professional organisations.

Recruitment Report

In July the Permanent Secretary and I attended a meeting of Caribbean Education Ministers in Barbados to discuss the loss of Caribbean teachers to developed countries such as the United Kingdom and the USA. While Cayman is not losing its own teachers to overseas, any attempts by other countries to curtail recruitment could seriously affect Cayman as our teaching force is three-quarters foreign nationals.

Shortly after assuming office I established a working group to examine the conditions relating to Caymanians in the teaching profession. The group made recommendations to determine ways and means of attracting Caymanians, particularly males into the profession and the report was tabled in the Legislative Assembly. A small committee to advise on the phased implementation of this report has been established, and their report is awaited. I am pleased to be able to tell my ministerial colleagues of our efforts to train more teachers and to receive their assurance that they will continue to treat Cayman as a special case because of our size and long standing recruitment practice. The Minister for Education in Barbados, The Honourable Rudolf Grenidge who hosted the meeting was in fact at one time the history teacher at the Cayman Islands high school. The Savannah accord, a historic document signed at this meeting is intended to promote a structured and well-managed programme of teacher exchange in trade skills.

Scholarship Implications

With the increasing cost of tertiary education abroad and the scholarship grant capped at CI\$17,000 per annum for overseas study, the Education Council has agreed to award a supplementary grant to those students who remain in education and

health-related fields in order to provide an additional incentive.

The Deputy Speaker: Honourable Minister, is this an appropriate time for the luncheon break?

Hon. Roy Bodden: Well, Madam Speaker, that certainly could be considered but it would be, to my mind, more effective if I would be allowed to—I am on page 8 and the report has about 12½ pages to complete the report, thereby allowing us to dispense with this piece of business.

The Deputy Speaker: Please proceed.

To improve information, communication and technology skills at all levels.

Overview of Current Issues

Hon. Roy Bodden: To improve information communication technology skills at all levels the Ministry accepts its responsibility to prepare our students for the Information Age, and to be modeled users of technology. Initial work was completed in this area under the banner of the P3ET project. This project has now been renamed ITALIC, the acronym for "Improving Teaching and Learning in the Cayman Islands" and much progress has been made in 2002 to use technology for school improvement, more highly qualified teachers, higher-achieving students, better record keeping, and communication, including communication with parents and improved business practices.

Information Technology Audit

An information technology (IT) audit was conducted in May 2002 by a team of educators from IBM's Education Consultancy Practice, the largest such practice in the world. Seven strands relating to use of technology in education were assessed and the findings were used to put together a multi-phase plan for the Government education system.

Improving Teaching and Learning in the Cayman Islands – ITALIC

ITALIC's focus is on using technology to improve teaching and learning, and as such it has three distinct components:

- training of teachers,
- adoption of software and other web-base solutions to raise the standards of taught materials and establish a bank of high quality lesson plans; and
- improve hardware and access to the Web through wired or wireless technology every classroom.

Phase 1 which is in progress has the following component:

- o establishment of an Advocate Group of teachers and administrators to develop the project, develop the information technology policy and gather feedback from teachers, students and parents
- o Training of 35 teachers to deliver a cascade model of professional development at all school sites
- o a study of the wired and wireless capability and requirements of all sites
- o establishment of an Education portal with email capability
- o the piloting of curriculum based software in five primary schools
- o development of an "internet acceptable use" policy for all schools.

As the ITALIC projects develops over the next three years it is our intention to have wireless laptop labs available to every classroom in the government system in the Cayman Islands. This does not mean that every child will have laptop in their bag packs; It does, however, mean that every child in the government school system will have access to a lap top computer and the Internet for school work and projects.

At a recent executive level training workshop in New York, attended by our Advocate Team, we heard the progress being made by school districts in the United States and in other Caribbean countries in developing web based education. Madam Speaker, along with myself and our team from the Cayman Islands, Ministers of Education from the British Virgin Islands and Curacao, as well as a representative from Bermuda, reported on the progress of information technology access to education in their countries. I say this only to point out the importance of this project in allowing the Cayman Islands to keep our competitive edge and to develop our students to be citizens of the world with the attitudes, skills and knowledge needed in this era of globalisation, and also, Madam Speaker, in keeping with the Honourable Leader of Government Business model and goal for the Cayman Islands to be a centre of excellence.

To enhance the provision for technical and vocational education

Overview of Current Issues

Much has been said and written on the provision or lack of provision for technical or vocational education in Cayman. In keeping with other progressive countries, over the last year my Ministry has taken a new approach to technical and vocational education and training (T-VET). We have decided to pair non-compulsory training (that is training or retraining after the years of compulsory education) with employment rather than education. The new Employment Relations Department has established a Human Resource Development Unit that will oversee demand-

driven training. It is proposed that in addition to careers and enterprise advice the unit will work with other stakeholders such as our tertiary education institutions and industry training organisations like the Chamber of Commerce to,

- (a) reduce skill mismatches,
- (b) improve access for the disadvantaged particularly the young unemployed,
- (c) to enhance the private sectors training role through programmes like Investors in People,
- (d) to improve system-wide management and co-ordination,
- (e) to disseminate information on available training resources.

The Department of Employment Relations is already working closely with the International Labour Organisation to carry out a Skills Audit to identify strengths, weaknesses and gaps in our labour market. A working document to initiate discussion on a national training policy has been prepared. We have recently been advised that Cayman has been accepted to be part of a Caribbean-based Labour Management Information System project (LMIS) which will result in better labour markets statistics and provide timely and accurate information for policy and programme development as well as accurate reporting.

Last year I mentioned that the Ministry would be seeking to strengthen partnerships between the various agencies and the private sector in areas of curriculum development, mentoring, apprenticeships and other training opportunities. I would like to commend both the Chamber of Commerce and the Big Brothers/Big Sisters on their recently launched mentoring programmes.

We have been pre-viewing training courses on employability and work maturity as well as a work-ethic curriculum. And we look forward in the coming year to piloting this programme in some of our schools as well as in the community.

To Establish Citizenship Education As An Integral Part Of The Curriculum At All Levels of Schooling

Overview of Current Issues

In 1991 the Harare Declaration committed Heads of Government of the Commonwealth to, "the upholding of democratic processes, the rule of law, the independence of the judiciary and just and honest government". The Commonwealth Education Ministers Conference held in 2000, attendance at which was one of my first duties as a Minister mandated that the Commonwealth Secretariat to strengthen the use of education to promote values of human rights citizenship and tolerance. We accepted the challenge because we appreciate that we live in a small multicultural country and we wish to educate our children in their rights and responsibilities so as to lessen or

avoid any tensions which might exist as a result of diversity.

Two of our teachers have recently attended a workshop on citizenship education run by the Commonwealth Secretariat in London, and the working party has been examining how to introduce these important concepts into the curriculum.

I am particularly pleased that the importance of Citizenship Education has been given a boost through this year's National Education Conference, and even more pleased that you Professor, the Honourable Rex Nettleford, OM, FIU, the Vice Chancellor of the University of the West Indies and an outstanding citizen of the region and the world, was chosen to bring the key-note address.

THE CADET CORPS

To date the Cayman Islands Cadet Corps has 34 Cadets aged 11 to 14 years enrolled in its programme. The Cadets participate in a four star level syllabus that is universally accepted and applied throughout Cadet Corps programmes. This syllabus is administered with the assistance of 8 volunteers who have previous training from para-military organisations. The Core programme itself is a hybrid programme drawing its base from the United Kingdom Army Cadet Force (UK ACF) and blending in various aspects of Caribbean Cadet Corps programmes. This information has been filtered and re-written to produce a cadet corps programme that whilst still being universal has been Caymanised.

The Cadet Corps, which is primarily government funded has recently held its first fund raising event as well as the first ever-full marathon in the Cayman Islands. This was done in an attempt to firstly educate the public about the Cadet Corps and secondly to allow the public to contribute to the success of the programme. The intent of the Cadet Corps is to have the event held annually as an international event attracting runners from around the world, and at the same time, promoting the country as a vacation destination. Madam Speaker, I would like to take this opportunity to publicly commend and thank Mrs. Tara Trickett who spearheaded that effort, and to commend and express appreciation to all those who helped the success of this event, either as participating athletes or as sponsors and volunteers.

Within the last year there have been several first for the Cadet Corps programme:

- In May 2002 the first Cayman Islands Cadet Corps passing out ceremony.
- In June 2002 the Cadet Corps participated in the Queen's Birthday Parade Drill Performance.
- In November 2002 they participated in the Remembrance Day drill performance.
- In November 2002 they held the Church Awards Day at the First Assembly Church of God.

- In late November a company, CUC, donated a vehicle to the Cadet Corps to assist in its further development.
- December 2002, Inaugural CICC Marathon.

Madam Speaker, I would like to go on record as placing the Ministry and by inference the Government's appreciation for this gesture of good will and corporate citizenship.

In 2003 there will also be the appointment of the Cadet Corps's first chaplain. In 2003 again the Corps will launch activities that include sailing classes and ride along with the Maritime section of the Drugs Task Force (DTF) and Citizenship Education Programme, as part of the curriculum.

ADDITIONAL AREAS OF RESPONSIBILITY

Tertiary Education

The Community College has submitted a proposal to the Government to become the University College of the Cayman Islands and offer four-year degrees in selected areas starting in September 2004. Madam Speaker, as Minister, I am in the process of reviewing this proposal with the view to taking this recommendation and the Ministry's recommendation to Executive Council prior to further action.

The Education Council has granted recognition of the International College of the Cayman Islands (ICCI) and has begun to grant scholarships to study for Bachelors and Masters Degrees at this institution.

The Ministry was pleased to welcome the St. Matthews School of Medicine to the Island and appreciates the contribution it will make to the tertiary offerings of our students. This institution has offered two scholarship places to Caymanians each year to study medicine.

The Tertiary Education Council meets regularly to consider matters of mutual interest to this sector and to provide advice as requested to the Ministry on a wide range of matters relating to post compulsory education. It is hoped that this group will be involved in upcoming discussion on distance- education.

Private Schools

The Ministry of Education and indeed the Government are cognizant of the role played by private institutions in delivering a high standard of education to one-third of our students. We will continue to assist them as much as we are able and in whatever ways possible. It is regrettable that the Annual Private School Grants had to be trimmed back in 2002 because of fiscal restraints. I look forward to the day when the former level of grants can be resumed. In the meantime we have begun to explore ways in which the private schools, if they so wish, can benefit from some of the improvements we are implementing especially through the ITALIC programme. We are pleased to have had two of the private school princi-

pals join us at their own expense when we visited two schools in Atlanta recently, which were demonstrating the use of web-based technology in education.

Parent Teacher Associations and The National Parent Teachers Association

All our schools are blessed with vibrant, caring PTAs, advocating for better services for their children and often providing services themselves. I am pleased to see that the national PTA has begun to function once more, and I look forward to supporting their work as well as listening to the advice which they can provide to the Ministry.

The National Mentoring Programme

The National Mentoring Programme mentoring Cayman is a joint initiative that was launched in October 19, 2002 between the Ministry of Education, Human Resources and Culture and the Chamber of Commerce to assist 49 high school students to become the next generation of business and community leaders.

Corporate sponsors and volunteers

We continue to be grateful to numerous companies, service clubs and individuals for their involvement in the education of our children. The sponsorship of events, such as the National Spelling Bee, The National Children's Festival of the Arts, The Maths and Science Exhibition, Reading Day and The Book Fair and other events, as well as individuals give of their time and their resources for special purchases for schools, are a source of pride for all of us that we are blessed to live in a caring community with an abundance of good-will.

CONCLUSION

The last two years have provided me with a multitude of invaluable experiences. I have seen a new excitement in the Education service. I believe I am seeing increased commitment and acceptance of responsibility among teaching and non-teaching staff. From my vantage point I sense a new maturity in our education service which has come about, I believe, because we have agreed and internalised the direction in which we are proceeding.

I should like therefore, on behalf of the Government and my Ministry to thank each of our teachers for their continuing efforts both to the teaching profession and to the children of these Islands. For my part I pledge my continued support to accomplish the goals we have set in the pursuit of "Education for the 21st Century Cayman Islands" of which we can all be proud.

Madam Speaker, I would like to add a footnote: I am proud to represent the political directorate

of the ruling United Democratic Party as the Minister of Education, espousing the political directorate's policies. I can say that from my travels that our education policy(ies) and our Ministry is as vibrant as any I have seen in the Commonwealth. I thank my ministerial colleagues for their continuing support and encouragement of me as the Minister. I feel proud and can stand tall and safely say that in the Cayman Islands today, with all due respect to the Opposition and other entities, there is no more dynamic Ministry and Minister of Education than the one which is the representative of the United Democratic Party in this Government. I thank you.

The Deputy Speaker: We shall now take the Lunch-eon break and reconvene at 3.00 pm.

Proceedings suspended at 2.03 pm

Proceedings resumed at 3.16 pm

[Deputy Speaker in the Chair]

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

GOVERNMENT BUSINESS

BILLS

The Deputy Speaker: Can I have a motion for the suspension of the relevant Standing Orders?

Suspension of Standing Orders 45 and 46(1) and (2)

Hon. George A. McCarthy: Mr. Speaker, I so move.

The Deputy Speaker: The question is that Standing Orders 45 and 46(1) and (2) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Standing Orders 45 and 46(1) and (2) suspended to allow The Legal Practitioners (Amendment) Bill 2002 to be read a first time.

FIRST READING

The Legal Practitioners (Amendment) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

Suspension of Standing Order 46 (4)

The Deputy Speaker: Could I have the Motion for the suspension?

Hon. George A. McCarthy: Mr. Speaker, I so move.

The Deputy Speaker: The question is that Standing Order 46(4) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Standing Order 46(4) suspended to allow The Legal Practitioners (Amendment) Bill 2002 to be read a second time.

SECOND READING

The Legal Practitioners (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: Thank you, Mr. Speaker. I rise to move the Second Reading of The Legal Practitioners (Amendment) Bill 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. David F. Ballantyne: Yes, Mr. Speaker.

The Deputy Speaker: Honourable Member, it has been brought to my attention that the air conditioning system in the building is not working and it is getting quite warm. With the leave of the House we want to allow Members the privileges of removing their jackets so that it would be more comfortable.

Hon. David F. Ballantyne: Mr. Speaker, I was about to offer to keep my contribution shorter.

(Laughter in background)

Hon. David F. Ballantyne: The Third Official Member just asked me still to keep it short. Thank you, Mr. Speaker.

Honourable Members will recall that part of the 2002 revenue measures involves an attempt to obtain approximately \$2.5 million from traders licences during the course of this year. This is the background to the present Bill. That particular revenue measure envisaged implementing a new element to trade and business licences payable by accountants, lawyers and other professional firms. The new element to the Trade and Business licence that was payable by accountants and other professionals is now in place in

the form of the Trade and Business Licensing Order 2002.

If I may briefly refer to The Trade and Business Licensing Law 2002, the Schedule there too speaks as follows: It defines "professional" as including accountant, actuary, architect, engineer, lawyer, statistician and surveyor.

In the case of accountancy firms at paragraph 2 of the Schedule which relates to section 14, which relates to the annual licence or renewal of licence – against the accountancy firms it says:

**"A firm of 1 to 5 accountants and other professionals, exempt;
A firm of 6 to 10 accounts and other professionals, \$15,000;
A firm of 11 to 15 accounts and other professionals, \$30,000;
A firm of 16 to 20 accounts and other professionals \$45,000;
A firm of 21 to 25 accountants and other professionals, \$160,000; and
A firm of 26 or more accountants and other professional, \$300,000."**

Mr. Speaker, paragraph 9 of that same Schedule, the heading, *Law Firms*, the Law stated:

**A firm of 1 to 5 lawyers and other professionals exempt;
A firm of 6 to 10 lawyers and other professionals \$15,000;
A firm of 11 to 15 lawyers and other professionals \$30,000;
A firm of 16 to 20 lawyers and other professionals \$45,000;
A firm of 21 to 25 lawyers and other professionals \$160,000; and
A firm of 26 or more lawyers and other professions, \$300,000.**

In short, the provisions for the lawyers were intended to be exactly the same as those for the accountants. This change was effected to The Trade and Business Licensing Law. I believe by order made according to my supplement, ends January 2002.

The difficulty that subsequently arose was that the lawyers, the profession through their representative body in this case the Bar Association, argued that although the trade and business licensing order states that law firms should pay a license that varies with the size of the firm, it was argued that law firms did not have to pay this license because section 3(a) of The Trade and Business Licensing Law states that the law did not apply to any trade or business that is licensed under another law. Law firms licensed under The Legal Practitioners Law were not subject to any regulations made under the Trade and Business Licensing Law.

This apparent impasse was to be resolved on the advice of the Portfolio of Finance. Instead of imposing the fees under the Trade and Business Licens-

ing order by imposing the fees under The Legal Practitioners Law, and that is the main purpose of the Bill before the House. If I may turn to the Bill and refer to its Memorandum of Objects and Reasons, Mr. Speaker, you would see that:

“The Bill seeks to amend The Legal Practitioners Law (2002) Revision to provide that recognised bodies regulated by the Legal Practitioners (Incorporated Practice) Regulations, 1998 and firms of attorneys-at-law which employ 6 or more attorneys-at-law shall be required to obtain [what is called] an operational licence in order to carry on their practices in the Islands.

“The Bill in clause 3 inserts a new section 12A [into the Law] which provides that such firms and recognised bodies shall pay to the Clerk of Court an annual operational licence fee specified in the Fourth Schedule [of the Bill.]

“Where a firm to which [this new] section 12A applies, engages or attempts to engage in the practice of law without being in possession of a current operational licence, the partners thereof are liable to suspension under section 7(i) of the Law.”

That section — 7(1) of the Law — empowers a judge for reasonable cause shown, to suspend any attorney-at-law from practising during any specified period or to order his name to be struck off the court roll. There is a procedure which involves communicating with the attorney concerned, the nature of the complaint, and the attorney being permitted to answer, and a right of appeal against any such order by a judge.

The material point is, however, that absent a current operational licence a firm of attorneys would be the partners of a firm of attorneys would be liable to suspension and/or revocation of recognition under The Legal Practitioners Incorporated Practice Regulations. The Incorporated Practice Regulations are for those firms of attorneys who have opted for recognition as an incorporated practice and a corporate entity. There being a distinction under English Law and as to the nature of a partnership. A partnership itself is not a legal entity under English law. In passing, I may say, under Scot's law it is, but that is by the by. It is English Law that applies here. Therefore, we have provisions for incorporated practices.

The fees for the licences are set out in the fourth schedule. And the fifth schedule provides the form of the licence. I will turn briefly to the fourth schedule: the operational license fees are upon my examination is exactly the same level of fees as are provided in the Trade and Business Licensing Law (2002 Revision), except that there is no reference—and I think this may just have been an intentional omission—that a firm or recognized body employing 1 to 5 attorneys should be exempt. I think there would be a move in incorporate such an amendment at the committee stage in order to make it absolutely clear that the purpose of this Law is not to penalise small

firms. In fact, it is the opposite. I am informed that the policy behind this Law—and this Bill represents Government policy on the matter—was to encourage small Cayman firms so that they would not have to pay this charge.

It is perhaps worth refreshing our memories that under the Legal Practitioners Law there is an annual fee for a practising certificate of \$1500 for every attorney who practises law in the Cayman Islands. So this operational licence would be an additional fee to that \$1500 fee. In fact, under The Trade and Business Licensing Law, accountants are also required to pay \$1500. That is paragraph 1 of the Schedule—\$1500 for each professional member of the business and that is in addition to the operational licence.

From what I can see, and what I can say, it appears that the lawyers are simply being treated in the same way as—and I see a shake of the head from the other side of the House—as the accountants. However, I am open to correction on that matter and if it is wrong the matter can be looked at. There certainly does not seem to be a difference between the figures and the nature of them. At least I have not been advised of any difference.

What we have is a sliding scale according to the size of the firm getting larger, as it were, and if you work out the per capita figure on the maximum end of each scale . . . (*pause*) I am sorry for the interruption, Mr. Speaker. If you look at a firm or recognized body employment 6 to 10 attorneys-at-law and the total is \$15,000 that would appear to be an extra \$1500 a head at the 10 end of the range, if you had 10 partners. And if you had 15 it would be an extra \$2000. If you had 20 it would be an extra \$2,250. And for 25 it would be \$4000 and for 26 or more (30) it would be \$10,000. So, the bigger the firm the bigger the pay and that may be seen to be an element of fairness in that because the larger the firm the more likely the larger disproportionately its profits might be considered to be.

Now, this legal dispute to which I have referred, these fees would have been paid from 1 January 2002. But because it was disputed they have not been paid and I know that there is an argument now being put forward that these matters have not been budgeted for. However, it appears to me, subject to correction, that firms were on notice since the 2002 budget of the presentation of these fees. One could take the view that even though they may have to be paid now in December for 2002 and again in January for 2003, that in fact, the interest on the money for this year has so far been saved. However, that is an economic question which I am not competent to comment on.

I would say that today all Members of the House would have received notification of certain comments from the Cayman Bar Association. I do not propose to rehearse these in detail but I think it would be useful to outline them for the House. They are not really opposed, it seems to me to a payment, nor even a pay-

ment of the level sought by the Government by way of revenue, but they argue that for firms of 6 persons or more it would be better to attach a fixed sum of money per attorney to raise the same total of revenue. They suggest, if I am correct, a figure of \$7,000 per attorney.

They also bring in the issue of attorneys in overseas offices of Cayman firms which they say enjoy the privilege of the connection with the Cayman Islands but would not pay for that privilege. If they will excuse me saying so, they have also asked for time to pay by installments because of the conjunction of the payments in December and January.

These are policy matters, in my submission, they are not matters of law and I am not doing other than articulating the Government's policy position. It will no doubt be addressed in debate and if appropriate they can be dealt with in a winding-up submission. I would be grateful if Members would point out anything with which they disagree. I am sure they will if they do in what I have said. I apprehend that what the Bill is seeking to do is no more or no less than putting the lawyers in a similar position to the accountants – the accountants having apparently accepted the imposition of these charges.

I cannot pass the occasion without it being mentioned that some might see this as the Financial Secretary in the role of scrooge at Christmas. Nonetheless, the Third Official Member has assured me that he thinks Scrooge should be knighted anyway.

(Laughter)

Hon. David F. Ballantyne: While this is not really a light-hearted matter – it is a serious matter – it is an issue that is within his responsibilities for the revenues of the Islands. I put this Bill forward for the consideration of the House in that regard. I am obliged.

The Deputy Speaker: Does any other Member wish to speak?

The Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. I apologise for my raspy voice; I hope it holds out but I am sure the Government hopes it fails.

We are once again faced with another piece of legislation for which we have only just had sight and for which the Standing Orders as they relate to the giving of sufficient notice have again been suspended. I note that there are also other Bills on the Order Paper for which a similar treatment is proposed.

I just wish, Mr. Speaker, to record again the objection of the Opposition to important legislation proceeding through this House without the required notice periods being complied with. This was one of the issues which was discussed at the Constitutional talks in London, whether or not the Constitution should

make specific provisions that minimum notice periods must be complied with as a matter of the Constitution.

As I look across the Floor of this Honourable House at the Honourable Minister for Communications and Works, I am reminded that he made a very strong submission at those talks that there was absolutely no need for any such provision because the Government generally complied with Standing Orders. It would be only in cases of emergency that the relevant Standing Orders relating to notice periods for Bills were suspended. Now, Mr. Speaker, if that is the case then this Government must be in a state of constant emergency because every piece of legislation that comes on to this Honourable House requires the suspension of Standing Orders for it to proceed through its first, second and third readings.

I am glad that the Honourable Minister for Communication and Works thinks this is a laughing matter, but being on the receiving end of it on a constant basis has not improved my temperament and certainly does not fill me with glee. I think I have said enough about that for the moment.

Mr. Speaker, this particular Bill, The Legal Practitioners (Amendment) 2002, as the Honourable Second Official Member said, seeks to give effect to the proposal in the 2002 Budget which would increase the fees paid by Law firms substantially. Way back then the Opposition voiced its objection principally to the manner in which that was being proposed and the shortness of time that had been allowed for any consultation, or the ability to make any preparation for the increase in fees.

That particular concern or objection cannot fairly be taken at this point because there is no question that the legal profession has had the benefit of a whole year and they knew this was imminent. So, while I have seen the letter from the President of the Bar Association which seeks to, among other things, obtain an installment programme (if I can term it that) for the payment of these fees. However, that is not a point that I am going to go to bat for. I believe that the firms would have had if we have acted prudently, would have made provision for this payment of this fee over the course of this year.

There are a couple of points, Mr. Speaker, some of which I addressed a year ago, and some of which I will be addressing for the first time today. I think they are worthy of consideration. The first is the way the proposed fee is structured. Under the proposal the firms of 1 to 5 Members will pay no operational fee but each of their lawyers will no doubt continue to pay the legal practitioners fee, which is \$1500. Firms from 6 to 11 will pay \$15000 and firms from 11 to 19 will \$30,000. *(pause)* Mr. Speaker, if I might just have one moment.

Hon. David F. Ballantyne: Mr. Speaker, if I can assist my Honourable friend, the details are 6 to 10, \$15000, 11 to 15 \$30,000, 16 to 20 \$45,000, 21 to 25

\$160,000 and 26 or more \$300,000. It is five bands of attorneys. He has the information now, I think.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker, and I think the Honourable Second Official Member for that assistance. I mislaid my copy of the legislation.

Mr. Speaker, the principal criticism of this particular structure is one which we had raised back in November last year because it discriminates unfairly, we believe, in favour of the larger firms. A firm which employs 6 to 10 lawyers will pay \$15,000; a firm which employs 11 will pay \$30,000; a firm which employs 15 will still pay \$30,000; a firm which employs 16 will pay \$45,000; a firm which employs 20 will still pay \$45,000. A similar situation arises in relation to those that employ 21, pays \$160,000 or if they employ 25 it is still \$160,000. A firm employing 26 or more is capped at \$300,000.

Mr. Speaker it would seem to us to be much fairer if there were a fee per attorney so that you knew that for each new attorney that you employed it would increase your cost by a predetermined amount. Government would still, assuming they have fixed the fee appropriately, derive the same income, and certainly in cases of firms employing more than 26 lawyers, they would possibly increase the amount derived from the proposed fee.

The Bar Association, Mr. Speaker, has also proposed that an alternative way of raising the required revenue would be by increasing the work permit fees for lawyers which would have not just the effect of deriving the revenue but creating an incentive to employ young Caymanian lawyers. That seems to have some merit, but it is not a point that I am putting forward too strongly. I simply say that that is the position the Bar Association has taken.

The other point that I would like to make is that under this proposed amendment there is no indication as to whether or not lawyers in overseas firms which practise Cayman Islands Law (and there are a number of them now) who hold themselves out as such, are covered by this fee structure. Arguably, I suppose it might be so. It is certainly my view that it should be so because these are Cayman Islands firms operating in another jurisdiction albeit but trading on the good name of the Cayman Islands and practising Cayman Islands Law. The commercial reality of the exercise is that much of the work which would otherwise have been done in Cayman by Cayman firms is being cut off at the pass in London, Hong Kong and some other places. It seems like this is one of the growth areas of the legal practice in the Cayman Islands. It is now in vogue for all of the principal firms to have an overseas office and they practise Cayman Islands Law.

There are other concerns of course that arise from this relating to the ability of the Chief Justice in this jurisdiction to exercise this sort of jurisdiction and discipline over lawyers who are not admitted to the Cayman Islands Bar but who are practising Cayman

Islands Law and purporting to do so holding themselves out as doing so in another jurisdiction in an offshore branch of a local firm, which happens quite often now. As I said, it is a growth area of the practice in these Islands.

I certainly believe that these fees, or any fees that are imposed, should include lawyers who purport to practise Cayman Islands law – particularly when it is a firm that already has a local presence, which all of them I gather, do. So, I would urge the Government to look at this particular point. It is another area from which considerable revenue can be derived. There are probably 30 or 40 lawyers overseas now who are practising Cayman Islands Law, most of whom are not admitted to Cayman Islands Bar.

Mr. Speaker, these are the points that I wished to make. As I said, the original objection about the haste with which all of this was being done has fallen by the by because of the passage of time. Quite frankly, I do not regard the proposed increases as being unreasonable in size. I just would be most grateful if the Government would consider whether or not they could impose the fees per attorney as opposed to trying to deal with it by banding, as they have done in the Bill that is before this Honourable House. I thank you, Sir.

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Thank you, Mr. Speaker. The Honourable Second Official Member outlined the process by which the situation has given rise to this amending Bill being brought to this Honourable House at this time. As the Honourable Second Official Member pointed out, the matter of the fees that are under review at this time were considered during the course of the 2002 Budget review. Right in this Honourable House, Mr. Speaker, I can recall the Government calling two meetings with the members of the financial industry. The proposal that was initially set out was one that they were not happy with and what emerged in terms of the banding, as set out in the Trade and Business Licensing Law, was a compromise that was arrived at from the discussions which took place. At that time there was no exemption being considered when the initial budgetary proposal was brought to this House and the Government took into account the arguments that were advanced by the financial industry. The Cayman Bar Association and the Law Society were present, together with representatives of the Chamber of Commerce and, in fact, representatives from all sectors of the financial industry.

It was known that what was set out in the Law was intended to contribute to the new revenue measures that the Government had under review and it was accepted as such, Mr. Speaker. What was not known at that time was that there was a provision in the Trade and Business Law in section 3(a) which stated that this Law does not apply to any trade or business

license to be carried on as such under any other law without reference to this Law. The particular law to which the lawyers referred to is The Legal Practitioners Law, under which they are required to pay a fee of \$1,500 per practicing lawyer which is similar to what is paid by the accountants. When the Budget measures were agreed upon, a revised Schedule was then prepared and circulated to all Honourable Members of this House and also the financial community. Therefore, the lawyers were aware that this band system had been put in place.

Mr. Speaker, the lawyers argued that there was a way of the Government getting more money. They suggested that the charge for the attorneys practicing within the Cayman Islands should be kept to a miniscule amount while hefty charges should be posed on those attorneys practicing overseas. I have taken note of the point raised by the Honourable Second Official Member, in that these lawyers who are overseas and purporting to practice Cayman Law fall outside of the purview of the Chief Justice for disciplinary purposes and otherwise.

We are in a very competitive environment these days. It would seem to me, as it did then, that these lawyers who are practicing Cayman Law overseas are driving business towards the Cayman Islands. They pay taxes in jurisdictions where they reside; so if we take into account how business is driven to international financial centres, we know that there are attorneys who specialise in the legal practices of different jurisdictions, driving business towards those territories. While it does not culminate in, say, a fee being imposed on these individuals, revenues flow. When companies are formed, company fees are paid and other ancillary activities that take place for which charges are imposed by the Government and job opportunities are created. These would seem to be ample trade-offs.

The question has been raised in terms of the inequitableness of the Government's proposal, in that, the fees range between \$15,000 and \$300,000. It was then advanced when the meetings took place with the representatives of the financial community that it would be advisable to have what we refer to as a threshold and also an upper limit. The question was what value should be placed on the upper limit, and it was then determined that it would be \$300,000. An example of one of these firms now paying the \$300,000 that fall below is one firm stated here as having 63 attorneys. They have the opportunity to increase their number of practicing attorneys beyond the minimum number that qualifies to pay the \$300,000 in respect of one firm.

It has been averaged out based on what is being proposed here by the Government that some will be discriminated against, in that they will be paying marginal amounts while others will not be doing so. Then I look at what has been proposed as the third Schedule, Spreadsheet C, which is attached to the letter from the Cayman Bar Association. Again, we

will start with the example of a firm comprised of 63 lawyers. They should pay an average fee of \$8,016. Firms with 48 should pay an annual fee of \$6,250; those with 28, \$4,286; those with 14, \$2,857; those with 13, \$2,500; those with 10, \$2,000. So what they are proposing is not a uniformed rate to replace what is being suggested as a staggered rate as such by the Government.

It was then determined that it was much easier to operate with a band system. The lawyers advanced their views during the initial discussion, as well as the accounts, but the accountants have gone ahead and have paid their fees. The lawyers are aware that this provision exists within the Trade and Business Licensing Law, and it is one of such that while in the ideal world everything would be the way everyone wants it, this is not a situation in the real world in which we live today.

Mr. Speaker, I would believe that yes, if there was a way to justify imposing fees on persons employed outside of Cayman, purportedly to be practicing Cayman Law, it is something that we can consider. However, it would seem at this juncture that we should address the fee structure based on the understanding that has emerged during the 2002 Budget process. At the end of the day, the country has needs, the Cayman community has needs and it is clearly understood in terms of what each sector would be required to pay. I think that while this is not the ideal situation—and the ideal will never be achieved in this world—I think this comes closely to representing the understanding which emerged during the discussions that took place between the Government and the financial industry when the revenue measures for 2002 were being considered.

I do believe that, as the Second Elected Member for George Town said, consideration can be given to seeing whether a fee can be imposed on attorneys practicing outside of the Cayman Islands. This is something that we have to review and look at extensively to research and consider the implications and to look at what the trade-offs are. Although I am not exact if it is the BVI Law that a number of lawyers are practicing, I do know that they are driving many companies, registration and so on to the British Virgin Islands. So it seems to me that in this world community, when we have got some representatives in London or elsewhere, these are matters that we should look at, especially in Europe. It should be said there is a place called the Cayman Islands and what are the merits in terms of doing business here. I know that our local attorneys and accountants are very competent, very able and they have their connections. However, it would seem to me that in addition to their expertise, having persons out there driving business to the Cayman Islands is reinforcing their activities.

Thank you, Mr. Speaker.

The Deputy Speaker: Does any other Member wish to speak? The Second Elected Member for the district of West Bay.

Mr. Rolston M. Anglin: Thank you, Mr. Speaker. My contribution will be short because certainly, as has been pointed out by all of the previous speakers, this matter was dealt with during the Budget process last year. The Government toiled, thought, calculated, recalculated and looked at every way possible to levy these particular fees. As the Honourable Third Official Member has correctly pointed out, you will get no system that is attractive to everyone. After putting the numbers, as we understood them, together in terms of the number of attorneys that each firm in the Cayman Islands had employed with them, we had to make certain decisions in regards to the fee structure. Certainly, as the Second Elected Member for George Town pointed out, there was an attractiveness to coming up with a flat fee per attorney. However, when the Government looked at the amount of monies that had to be raised in this particular area, we could not justify a flat fee because of the heavy burden it would have placed on all firms of 20 attorneys or less. If we look at the revenue the Cayman Bar Association projects the Government will raise, \$150,000, divide that by the 228 attorneys in the Cayman Islands, we came up with a fee of some \$4,605 per attorney.

Mr. Speaker, let us now go back to the brackets the Government currently has. First of all, if we charged a flat fee, three firms that are currently not paying any fee—because they fall between 1 and 5 attorneys—would have to pay, in one instance, around \$20,000 and another would have to pay \$25,000. So instead of three firms with five or less attorneys paying nothing, and we adhere to the Government's policy to try and encourage and promote the growth of small firms—people hanging their own shingles, as it were—those persons would pay \$20,000 in two examples, and \$25,000 in another example. I am just rounding here, Mr. Speaker, within a couple of hundred dollars.

If we look at the band from 6-10 attorneys, the government fee is \$15,000. If we apply that same \$4,605 per attorney, a firm in the 6-10 bracket would instead have to pay \$27,630 on the low end. That is 6 attorneys multiplied by the \$4,605, up to \$46,050. So, Mr. Speaker, a firm somewhere between 4, 6 and 10 attorneys would double their fee or, at the top end, triple their fee. If we go on the bracket between 11 and 15 attorneys at the low end of that bracket, utilizing the reasonable figure of \$4,605 per attorney, the fee would be \$50,655. That is 11 attorneys multiplied by \$4,605. At the top end of the bracket, they would have to pay 15 multiplied by the \$4,605, or \$69,075 versus the government policy of \$30,000. Mr. Speaker, that is a significant difference for a small firm. At the bottom end, that would be a difference of some \$20,655, and at the top end of that bracket they would double their fees and pay some \$39,075 more.

On a band of 16-20 attorneys the Government is seeking to charge \$45,000. If we went along the proposal of going with a fixed fee per attorney, we would have 16 attorneys multiplied by \$4,605, or \$73,680. At 20 attorneys it would be \$92,100. I reiterate: the Government's position is that those firms pay \$45,000. So instead of paying \$45,000, at the bottom end of that particular bracket the firm would pay \$73,680, and at the top end of 20 attorneys the firm would pay \$92,100. It would double their fees.

Mr. Speaker, that is what the Government considered small to medium size firms. Those were the firms that the Government sought to protect so as to encourage growth. We believe, for the most part, when a Caymanian goes out to form a law practice they are not going to form a law practice greater than 26 attorneys straight away. In fact, it would take them many years to get to that level. We believe that 20 lawyers in a law firm is indeed a level of attorneys that we should be encouraging Caymanians to strive towards, and in so doing, structuring our fees so that the firms in those brackets benefit by having to pay a lower fee versus a fixed fee per attorney.

Mr. Speaker, when we go in the band of 21-25 attorneys, we see that the government fee is \$160,000. If you multiply that by \$4,605 per attorney, the firm would pay \$96,705 at the low end, and at the top end they would pay \$115,125. They would save money. However, the Government's position was above 21 attorneys – large firms that are able, with efficient use of their attorneys, to generate much higher revenues than the small and medium size firms.

The bracket that includes 26 attorneys and over, at the very bottom end it would be \$119,730, versus the \$300,000. Again, we would be unequally shifting the burden from the larger firms to the smaller to medium size firms. Certainly, when we start to go above 26 attorneys, getting up to, say, 60 to 70 attorneys, we see that those firms would start to pay incrementally more amounts of money. However, if we took the \$300,000 and divided it by the \$4,605 per-attorney fee, we would come to 65 attorneys, and again I am rounding. So between 26 and 65 attorneys, you would have firms, in effect, saving money below their fee of \$300,000.

Certainly, it is attractive and much simpler to have a fixed fee, but as all Honourable Members know within this process, first of all you have to determine the amount of money the Government seeks to raise with this particular revenue measure; that is your base. There is also a base of the numbers of attorneys that are here. When you take the amounts being sought to be raised, which is just over a million dollars, you divide it by the 228 Caymanian attorneys, you come out around \$4,600 that each firm would have to pay for each of their attorneys if the Government implemented a flat-fee system straight across the board. We do not believe that that is what we would want to encourage in Cayman. We want to en-

courage more and more Caymanians who have the skill sets to be able to start up their own practice and build it up to a large firm. This Fee Schedule encourages that and the numbers simply tell the truth.

If we were to apply a flat amount per attorney, the three firms in the Cayman Islands that are currently exempt would be paying somewhere between \$20,000 and \$25,000 for their operational licence versus having to pay nothing now. This would allow them the financial flexibility to get themselves started and growing, stabilise their company and revenue flow, have their attorneys working and being efficient, billing appropriate numbers of hours and earning appropriate fees so that when they do get to the point where it is 6-10, they are transitioning into the first phase of the Fee Schedule. In the 6-10 attorneys bracket, if the Government went along the lines of a fixed fee per attorney, at the low end a firm would pay some \$27,630 versus the \$15,000 they currently pay which is almost double. At the top end of that schedule they would pay \$46,050 versus the \$15,000 that they currently pay. Again, the Government saw this as critical times for firms that are in this bracket, being able to continue to grow and reinvest monies into their firms. Certainly, everyone knows what the Fee Schedule is and what the bands are. You prepare yourself financially as you transition from one band to the other. Mr. Speaker, at the top end of the 6-10 bracket, a fixed fee would triple the figure from \$15,000 to \$46,000. If we take the 11-15 bracket, firms would pay around \$50,655 versus \$30,000 under Government policy.

The Government looked at this. We went through the pains of working out precisely how much money we needed to raise and how much money firms would have to pay going on a fixed-fee basis or going on a banding basis. Now, I know it has been said that this Government has not said things in their budgets, but anyone who knows economics, or anything about business and how the real world operates, would see that yes, you see just a bunch of numbers but there is a specific policy behind going this route. It is to encourage Caymanian law firms to start out without having to pay a fee up to their first 5 attorneys, and all the way up to 20 attorneys you are at a distinct advantage in terms of this banding system. That is purposely done. The number of law firms in the Cayman Islands totals 11 with less than 15 attorneys, and there are only three firms that are greater than 15 attorneys. In fact, those three firms that are greater than 15 attorneys are all greater than 26 attorneys. Let me repeat that, Mr. Speaker: Of the 15 firms listed in the Bar Association's letter, and to my knowledge encapsulate the major firms on the Island, 11 of those firms are less than 15, and 3 are greater than 26.

Mr. Speaker, the Government clearly knew that the banding system we were proposing would not have shifted the burden from the larger firms to those smaller firms by going with bands versus a flat per-attorney fee. It provides the opportunity for all those firms to grow their practices and become medium

sized firms, and eventually become larger firms with the fee structure favouring them. This banding system is a clear policy; it is a policy that says that the United Democratic Party Government is about Caymanians being able to open their law practices, not be overburdened by fees, and be able to grow their firms and not pay unequal distribution of the fees by paying a flat per-attorney fee.

Mr. Speaker, I will agree with the points raised by the three speakers before me that it is absurd in the extreme for there to be a request for the 2002 fees to be paid on terms when everyone knew from a year ago that these fees were due. The accountants have paid their fees, the accountants have been covered under the Trade and Business Licensing Law. Some of them went to the Financial Secretary and received permission to pay their fees on terms. In fact, I can remember a year ago the lawyers asked whether or not these fees could have been paid on terms. To come one whole year later and say, *'We have not budgeted for it; you have caught us by surprise, so now we are going to have to pay these fees twice within a one-month period. Give us the ability to pay the 2002 fees on terms.'* I think this is unreasonable because those firms knew from one year ago what these fees are, so they had ample opportunity to budget for those fees this year.

I do agree with the Second Elected Member for George Town when he said that the levels of these fees are not unduly harsh in any way. I take the opportunity to agree with him because we do not agree on many points. These fees are by no means extreme. These fees, as I have clearly outlined, favour people starting up law practices and growing them from small through medium sized practices, and allows them the financial flexibility to do so without the fees being exorbitant if it was a per-attorney fee.

Ultimately, per attorney you cannot just pluck a low fee out of the air and say if it was a thousand dollars per attorney, this is what it would be for a large number of attorneys. No, Mr. Speaker, the Government has a specific amount that it has to raise on this measure and it is around a million dollars, so the fee that they would have to pay would be around \$4,600 per attorney.

Mr. Speaker, I thank you for allowing me to repeat some of that information, but I think it is very important to clearly illustrate what the financial ramifications would be if we went with a flat fee. I thank you, Mr. Speaker.

The Deputy Speaker: Does any other Member wish to speak? Does any other Member wish to speak? If no Member wishes to speak, does the Honourable Second Official Member wish to exercise his right of reply?

Hon. David F. Ballantyne: Thank you, Mr. Speaker.

I listened with great interest to the contributions to the debate. I think there are, perhaps, three points arising which I will deal with briefly.

First of all, it appears to me that the Legal Practitioners Law does not make any provision for overseas lawyers and the practice of Cayman Islands Law. Those who are not in possession of an annual practicing certificate and attempt to practice without one are liable to suspension by the Chief Justice. The question that arises is: Does this apply to a lawyer overseas who is practicing Cayman Islands Law and is the law silent on that situation? It appears that it may be, and I suggest that that is an undesirable situation if, in fact it obtains. I have no information that there are lawyers practicing Cayman Islands Law. If there are, then it would appear that they are not amendable to the jurisdiction of the Chief Justice and it may be that consideration should be given in conjunction with the Chief Justice to addressing that issue. According to the table of information provided by the Bar Association, there are some 32 lawyers associated with the larger firms who may be practicing overseas. What law they practice, I know not. The question that arises is: If they are practicing Cayman Islands law, are they practicing in an unregulated way? They would not, for example, be subject to the Cayman Islands Bar discipline, either membership of the Law Society or the Bar Association. It would be a form of offshore law, as it were, to the Cayman Islands, and therefore, there may be a need subject to what they are doing for some kind of overseas practicing certificate, a condition of which might be a fee together with submission to the jurisdiction of the Chief Justice in relation to that matter. It may, however, be that they are practicing the law of the country in which they find themselves and amenable to that jurisdiction. I know not.

Turning to the criticism of the Bill, I think the main criticism from the Second Elected Member for George Town was that it discriminated unfairly in favour of the larger firms. Well, I wonder if that analysis, in fact, holds up. I do not wish to repeat the financial exercise the Second Elected Member for West Bay engaged in, but the fact is there is a banding arrangement here. I do not think it can be said that anyone at the lower end of a band is paying more than anyone at the higher end of the band, they simply are paying the same according to the band. In that regard, it might be useful to refer to the table of information provided by the Bar Association. There are three firms at the lower end with less than 6 practitioners accounting for 13 lawyers who will pay nothing at all, and it is to be assumed that they will be Cayman firms. I do not know. I do not wish to name them.

In the next band of 6-10 lawyers, there are six firms with 50 lawyers. It is interesting to note that of those six firms three are at the top end of the range. They have 10 lawyers. There are two firms with 7 and one with 6 so there is a distribution there.

In the next band of 11-15 lawyers there are two firms accounting for 26 lawyers between them;

one with 12 lawyers and one with 14. Then you have the top band of three firms with over 26 lawyers, and they account for 139 lawyers. More than half the lawyers in the Cayman Islands are accounted for by three firms. Now, when you look at the banding and you accept that within a band the smaller firm does not pay more than the larger firm, they pay the same. Other than that it seem to me that it is clear that the larger firms pay more. The 6-10 membership pay \$15,000; the 11-15 pay \$30,000; there is no firm in any other category up to 26; and the 26-plus firms pay \$300,000. So if you multiply three firms at \$300,000, you get \$900,000 of the total of about \$1 million paid by the very large firms. The two firms in the 11-15 bracket pay \$60,000 between them, and the six firms in the 6-10 category pay \$90,000. So, I think you can see that the very largest firms are, in fact, paying ten times the amount that the very small firms are paying. The proportion of difference between the next lower scale of \$30,000 is, again, ten times. The larger firms are paying \$300,000. So I think it could be fairly said that firms are paying according to their means.

That is all I really wanted to say about the financial aspect. It may be thought by the public to be a little unusual for lawyers to be pleading that they are short of funds. They should, in fact, have made provisions; that has been conceded by the other side in this debate and therefore, in my submission, there is no surprise here. There is nothing new in this. These fees should have been settled some considerable time ago, although in fairness, this method has only now being advanced.

With these considerations, Mr. Speaker, it appears that the Government does not intend to change its policy as advised to me by the Third Official Member as to the structure of the fees. The other points that I have mentioned will be taken under consideration in relation to overseas lawyers with these comments, in particular, that roughly 90 per cent of the revenue is coming from the three largest firms. It would appear that it is fair to state that the heaviest burden is being taken by both the largest firms and the largest numbers of attorneys; 139 attorneys in three firms which go in size from 28 to 48 to 63. It is significant that the overseas lawyers are all associated with those three large firms, so it is probably indirectly the case that the overseas lawyers, or firms with overseas lawyers, are, in fact, making a larger contribution.

I wish to conclude with those remarks and thank you, Mr. Speaker and the House for its attention.

The Deputy Speaker: Honourable Members, we have now reached the hour of 4.30. Is there a motion to suspend Standing Order 10(2)?

Suspension of Standing Order 10(2)

Hon. Linford A. Pierson: Mr. Speaker, we wish to suspend Standing Order 10(2) to allow for the remaining business on the Order Paper to be completed.

The Deputy Speaker: The question is that Standing Order 10(2) be suspended to allow all remaining business on the Order Paper to be completed. All those in favour please say Aye. Those against, No.

Ayes

The Deputy Speaker: The Ayes have it

Agreed: Standing Order 10(2) suspended to allow the remaining business on the Order Paper to be completed.

The Deputy Speaker: The question is that a Bill shortly entitled, The Legal Practitioners (Amendment) Bill, 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.
Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Legal Practitioners (Amendment) Bill, 2002 has been given a Second Reading.

The Deputy Speaker: The House will now go into Committee to consider that Bill.

House in Committee at 4.39 pm

COMMITTEE ON BILL

The Chairman: The House is now in Committee. Please be seated.

With the leave of the House, may I assume that as usual we should authorise the Honourable Second Official Member to correct minor errors and such the like in these Bills. Would the Clerk state the Bill and read the clauses?

The Legal Practitioners (Amendment) Bill, 2002

Clauses 1 through 4

The Clerk: The Legal Practitioners (Amendment) Bill, 2002.

Clause 1	Short title
Clause 2	Amendment of The Legal Practitioners (Amendment) Bill (2002 Revision) – Definitions.
Clause 3	Insertion of new section 12(a) – Operational license fee.
Clause 4	Insertion of new schedules.

Hon. David F. Ballantyne: Mr. Speaker, may I mention the Committee stage amendment which I referred

to in my opening speech? There is no notice and it would be necessary to move the suspension of the relevant Standing Order in order to introduce this. If Members will recall, it was to replicate what was already in the Trade and Business Licensing Law to the effect that a firm of 1-5 five lawyers and other professionals would be exempt. It is not necessary to say that is a matter of law but it might simply make it clear, for anyone who looks at the Law that that, in fact, is the case. It would, as been observed, tidy it up. I have in writing, albeit manuscript, the necessary amendment.

The Chairman: The question is that clauses 1 through 3 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

Clause 4 - Amendment

The Chairman: The amendment as referred by the Second Official Member only inserts that, “A firm of 1-5 lawyers and other professionals exempt” from any fees. I think we all agree that that was the intent of the Law. I will give notice of approval of the waiver. The question is that amendment do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Amendment passed.

The Chairman: The question is that clause 4, as amended, do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 4 as amended passed.

The Clerk: A Bill for the amendment of The Legal Practitioners (Amendment) Bill (2002 Revision) and for Incidental and Connected Purposes.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Title passed.

The Chairman: The question is that the Bill be reported to the House. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: That the Bill be reported to the House.

House Resumes

The Deputy Speaker: The House will now resume. Proceedings are resumed. Please be seated.

REPORT ON BILL**The Legal Practitioners (Amendment) Bill, 2002.**

Hon. David F. Ballantyne: Mr. Speaker, I beg leave to report that a Bill entitled, The Legal Practitioners (Amendment) Bill 2002, has been considered in Committee and is passed with amendments. Thank you.

The Deputy Speaker: The Bill has been duly reported and is set down for the Third Reading.

Suspension of Standing Order 47

The Deputy Speaker: The Deputy Leader of Government Business.

Hon. Linford A. Pierson: Mr. Speaker, I beg to move the suspension of Standing Order 47 to allow for the Third Reading of The Legal Practitioners (Amendment) Bill 2002.

The Deputy Speaker: The question is that Standing Order 47 be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Standing Order 47 suspended to allow the Bill to be read a third time.

THIRD READING**The Legal Practitioners (Amendment) Bill, 2002**

The Deputy Speaker: The Honourable Second Official Member.

Hon. David F. Ballantyne: Mr. Speaker, I move that a Bill entitled, The Legal Practitioners (Amendment) Bill 2002 be now read a third time and passed.

The Deputy Speaker: The question is that a Bill shortly entitled, The Legal Practitioners (Amendment) Bill 2002 be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Legal Practitioners (Amendment) Bill 2002 given a Third Reading and passed.

The Deputy Speaker: The Honourable Deputy Leader of Government Business.

Suspension of Standing Orders 45 and 46(1) and (2)

Hon. Linford A. Pierson: Mr. Speaker, I beg to move suspension of Standing Orders 45 and 46(1) and (2) to allow for the first readings of various Bills.

The Deputy Speaker: The question is that Standing Orders 45 and 46(1) and (2) be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Standing Orders 45 and 46(1) and (2) suspended to allow the following Bills to be read a first time.

FIRST READINGS**The Marine Conservation (Amendment) (No. 2) Bill, 2002**

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Port Authority (Amendment) Bill, 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Customs (Amendment) Bill, 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Cayman Islands Registered Stock Bill, 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Monetary Authority (Amendment) Bill, 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Banks and Trust Companies (Amendment) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Mutual Funds (Amendment) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Insurance (Amendment) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Money Services (Amendment) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Companies Management (Amendment) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Supplementary Appropriation (1993) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Supplementary Appropriation (1994) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Supplementary Appropriation (1995) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Supplementary Appropriation (1996) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Supplementary Appropriation (1997) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Supplementary Appropriation (1998) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Supplementary Appropriation (1999) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Supplementary Appropriation (2000) Bill 2002

The Deputy Speaker: The Bill is deemed to have been read a first time and is set down for the Second Reading.

The Honourable Minister for Planning.

Suspension of Standing Order 46(4)

Hon. Linford A. Pierson: Mr. Speaker, I beg to move the suspension of Standing Order 46(4) to allow for the Second Readings of various Bills.

The Deputy Speaker: The question is that Standing Orders 46(4) be suspended. All those in favour please say Aye. Those against, No.

Ayes and one No.

The Deputy Speaker: The Ayes have it.

Agreed: Standing Order 46(4) suspended to allow the Bills to be read a second time.

Hon. Linford A. Pierson: Mr. Speaker.

The Deputy Speaker: The Honourable Minister for Planning.

Hon. Linford A. Pierson: The Honourable Minister for Tourism [who was supposed to move] The Marine Conservation (Amendment) (No.2) Bill, 2002, and The Port Authority (Amendment) Bill 2002, is absent at this time. So I would ask that they be deferred until he returns later down in the Meeting.

The Deputy Speaker: Madam Clerk, could we then start with the Customs?

(pause)

The Deputy Speaker: Since there is a motion for the deferral, I will now put the question that we defer the Second Readings of those two Bills until later on in this Sitting. The question is that The Marine Conservation (Amendment) (No.2) Bill, 2002, and The Port Authority (Amendment) Bill 2002, be deferred until later on this Sitting. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

SECOND READINGS

The Customs (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of a Bill entitled, The Customs (Amendment) Bill, 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. George A. McCarthy: Thank you Mr. Speaker. The very short Bill that we have in front of this Honourable House seeks to amend section 10 of The Customs Law (1998 Revision) in order to allow for the importation of a category of vehicle known as Hummer. The Customs Law (1998 Revision), section 10 (4) states that, "**No person after 22 April 1997 shall import into the Island a Hummer motor vehicle**". Section 10(4) by this amendment will be repealed when this Bill is passed into law and the prohibition against this category of vehicle will be dealt with in the Customs Prohibited Goods Regulations.

Mr. Speaker, as Honourable Members are aware, there is a new type of Hummer that is being designed by General Motors for civilian use as opposed to the other original vehicle which was developed specifically for the military, and it is this vehicle to which the prohibition relates. Therefore, the original prohibition was based on the Hummer H-1 because it was designed for the military and because it exceeded a width of 6 feet 8 inches. The Hummer H-2 that General Motors has now designed for domestic use is under this width. While it looks like a military vehicle, it is for domestic use. This Hummer H-2 is similar in size to vehicles such as the Chevy Suburban, Ford Excursion and other such vehicles.

This is a very short amendment. As Honourable Members are aware, there is one that has been

imported to the Island but this cannot be released by the Customs Department until this amending Bill has been passed.

I would welcome the support of Honourable Members to this very short Bill.

The Deputy Speaker: Does any other Member wish to speak? Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: To say thanks, Mr. Speaker, to Honourable Members for their support.

The Deputy Speaker: The question is that a Bill shortly entitled, The Customs (Amendment) Bill, 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Customs (Amendment) Bill, 2002 given a Second Reading.

The Cayman Islands Registered Stock Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Thank you, Mr. Speaker. I beg to move the Second Reading of a Bill entitled, The Cayman Islands Registered Stock Bill, 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. George A. McCarthy: Thank you, Mr. Speaker. It is well known that the Government plans to execute a bond issue in early 2003. This was mentioned during the course of the 2002 Budget recently when the Honourable Leader of Government Business tabled the strategic policy statement for the fiscal year 2003/2004, and also during the recent meeting of Finance Committee that was held on the 16th of this month. The Bill is being brought to this Honourable House to enable that plan to be carried out. The Cayman Islands existing legislation does not allow a bond issue to be made, therefore, the purpose of this Bill, when it is passed into law, is to give this Government and future governments the ability to introduce bond issues.

Mr. Speaker, one of our local newspapers carried the headline on Tuesday that the Government will make \$136 million bond issue in 2003. I wish to make it abundantly clear that if this Honourable House passes this Bill into Law today, this will not mean that the Government will be automatically given the green

light to execute the bond issue in 2003. Passage of this Bill into Law simply means that we establish the ability for the Government to pursue a bond issue if it so wishes, but Government will still be required to come before the Legislative Assembly early next year to seek its approval to actually use the provisions of this Bill to execute a bond issue and that can be dealt with by way of resolution.

Mr. Speaker, I want to make that point very clear to allay any doubts in the minds of Honourable Members that the passing of this Bill will lead automatically to the bond issue taking place without any further involvement of this Honourable House. That is the situation where this Honourable House will be apprised at each stage of the bond issue.

I will now turn directly to the Bill itself. The Bills Memorandum of Objects and Reasons has 47 clauses, and I shall be concentrating on a few features of the Bill.

Clause 1 of the Bill provides the title of the intended law. I wish to elaborate very briefly on two of the words used in the title, "Registered" and "Stock". The term "registered" is used in the title of the Bill because the holders of bonds issued by Government will have their details recorded in a register. Those details will include (a) the name of the bond holder; (b) the address of the bond holder and; (c) the dollar amount of the bonds that the holder owns. The word "Stock" that is used in the title of the Bill can be taken as having the same meaning as "Bond".

Clause 4 is the most important clause in the Bill and it relates to my introductory remarks that the Government will always have to get approval from the Legislative Assembly to use the provisions of this Bill before it actually executes any bond issue.

Clause 5 provides that payments of principal and interest relating to any bond issue are to be met from the Islands' revenues. When read in conjunction with clauses 20 and 23, clause 5 means that the Monetary Authority, as the registrar of any bond issue, will arrange for interest payments to be sent to bond holders after receiving the funds required to make those payments from the Government's accountant general.

Clause 8 of the Bill provides that the Monetary Authority shall act as registrar in respect of any bond issue. The establishment of a registrar that is different and independent of the bond issuer, which in this case would be the Cayman Islands Government, is a typical arrangement in bond administration and gives comfort to potential bond holders.

Clause 24 of the Bill deals with the establishment of a sinking fund in connection with any bond issue. The purpose of the sinking fund is to receive monies that are paid out of the Islands' revenues and to invest those sums received to ensure that sufficient amounts will be present when the bond holders have to be repaid their bond principal. This is a very important provision and it typifies past and present govern-

ments' attitude that the Islands' indebtedness must be repaid in full and on time.

Clauses 25 through 28 all revolve around this sinking fund. Clause 25 provides that the Financial Secretary shall cause monies to be paid out of the Islands' revenue and the amounts so paid out are to be paid into the sinking fund. Clause 26 specifies persons that will act as trustees for the sinking fund. Mr. Speaker, the trustees named in the clause are the Financial Secretary, the Deputy Financial Secretary, the Managing Director of the Monetary Authority and a director of the Authority nominated by the Governor in Council. Clause 27 states that the trustees must only use the amounts in the sinking fund to repay the principal on the bond issue. Clause 28 provides details of the types of investment that the amounts in the sinking fund may be used to acquire.

Mr. Speaker, these are, in my opinion, the key clauses of the Bill, and while the Bill is somewhat lengthy its essence is quite simple and uncomplicated. It provides this Government and future governments with an additional way of securing funds that are required to provide the Islands with a high quality infrastructure that the public has come to expect.

I have deliberately made very little reference to the figures or amounts in what I have said because it is important to focus on how the law will operate. I refrain for two reasons: firstly, this Bill is not uniquely tied to the \$136 million bond issue that the Government plans to execute in 2003. When this Bill becomes Law it can be used as the basis for further bond issues once this Honourable House approves each subsequent bond issue. So I did not want to clutter my explanation of the Bill with the figures that are in respect of one particular bond issue. Secondly, when the Government wishes to execute the planned bond issue in 2003 it must return to this Honourable House to seek approval for that particular issue and I consider it more appropriate to provide numerical information at that point in time. As I said, that will be dealt with by way of a resolution.

In conclusion, Mr. Speaker, I would therefore like to make the following summarising remarks. I keep emphasising and re-emphasising that the passing of this Bill does not mean that the Government can issue bonds without first getting approval from the Legislative Assembly. It must get that approval each time it wishes to execute a bond issue. Secondly, the Legislative Assembly continues to be the sole body which can authorise borrowings. Thirdly, once this Bill is passed into law and the Government obtains the Legislative Assembly's approval to borrow funds, Government may then choose the precise form in which that borrowing will take place. At least two options would then be available. The Government could continue to obtain borrowings through commercial bank loans or funding could be obtained by means of a bond issue.

Mr. Speaker, with these remarks I commend this Bill to Honourable Members.

The Deputy Speaker: Does any other Member wish to speak? Does any other Member wish to speak? The Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. With the greatest of respect to the Honourable Third Official Member, I must say that I am surprised and disappointed by the shortness of his speech to this Bill. You see, this Bill runs to some 47 clauses. It is a highly technical Bill. We all know that its purpose is to enable the Government to issue bonds and none of us take any issue with that; it is something that has been contemplated for quite a while. Being at a disadvantaged position in the Opposition, we only had sight of this substantial Bill yesterday afternoon, and at the very least we would have expected a clear analysis of the important clauses of the Bill so that we, and the country at large would have a better understanding of how the system is proposed to work.

Mr. Speaker, it is unfair in the extreme for the Government and the Honourable Third Official Member to expect us, on such short notice, to offer enlightened debate on this Bill. This is a highly technical piece of legislation which we would have needed to have sat down with consultants who understand these things and to determine for ourselves whether we believe it is operationally sound. We understand the premise upon which it rests and we understand what it seeks to achieve, but as to whether it is good, bad or indifferent we have no way of knowing. I am even getting tired of hearing myself complain about these things, but it really makes a mockery of the function of the Opposition that we are supposed to perform. What are we going to say? What is anyone going to say? I am going to wait and see if any other Member of the Government Bench is able to offer any more enlightened debate on this matter than the Honourable Third Official Member has.

Mr. Speaker, in the short time that I had to look at it, there is one matter that I must say rankles, and that is the question of the proposed appointment of the Monetary Authority as the registrar for the issue of stock under this piece of legislation. This is something that I have addressed before. The Monetary Authority is a misnomer; it performs no functions that are normally associated with such an Authority. It is not required to deal with fiscal policy or to set fiscal policy or to even execute it. Other than the issuance of currency, it has no function outside the parameters of regulations of the financial services industry.

Now, Mr. Speaker, it is proposed by this piece of legislation that the Monetary Authority be made the registrar of the issue of stock emerging from this Law. I have not checked to see whether or not we are proposing to amend the Monetary Authority Law to give it jurisdiction to do this or whether or not the current definition of its functions is broad enough to encom-

pass what is proposed by this. Perhaps that is something the Honourable Third Official Member can speak to when he replies. It would seem more logical to me for this particular function to vest in the Cayman Islands Stock Exchange, at least the name seems to contemplate acting as the registrar of stock.

Other than what I have offered, there is really not much that I, or anybody else on either side of the Floor, can say about this. This is a complex, technical piece of legislation we have been given. I think I can honestly say now 24 hours notice before we were expected to debate it and so, once again, we labour under that impediment.

Mr. Speaker, as I have nothing further to say I shall sit down.

The Deputy Speaker: Does any other Member wish to speak? Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

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

I have heard the comments of the Honourable Second Elected Member for George Town, and I have taken note that he said my introductory remarks to the Bill should have been more expansive. I have focused on the main clauses of the Bill and some of them have been linked, for example, to explain the functions of the registrar, the definition of "Stock" and to comment on several paragraphs that have to do with the setting up of the sinking fund. In summary, the Bill seeks to establish a vehicle by which the Government of the day can raise a bond issue and implement the necessary authorisation to do so.

The Bill clearly points out that having in place a law does not give the Government the automatic right to introduce a bond issue. Emphasis has been made that at each stage it will require the approval of the Legislative Assembly because it is only the Legislative Assembly that is empowered and has the right to authorise borrowings or any obligations upon the Crown. This is a very important point and one that is advocated by this Government, as well as past governments, and one I am an advocate for. I know the Honourable Minister of Planning has emphasised this point during discussions we have had. Whenever a sinking fund or a bond issue is entered into, there has to be a sinking fund to ensure that the required sums of money are readily available so that whenever the bond issue matures the government of the day will have the required money in order to settle in full the indebtedness.

Other countries have seen the route of using bond issues as an easy way of raising funds on the capital market. It is always easy and typical because every government is comprised of human beings, and this is where many people get into trouble in terms of borrowing. It is always attractive when you are getting the lump sum of money up front when it is being made

available to you or another person as a loan. Governments will have to be prudent to make sure that they do not fall into that trap. The question is the repayment of that when it matures. Many governments who have not made appropriate provisions find themselves having to engage in serial bonds, in that, when one bond issue matures they have to enter into another one in order to settle the bond issue that is maturing and as a result, their indebtedness continues to spiral.

I will go through each of the clauses of this Bill to respond to the comments by the Second Elected Member for George Town and to demonstrate that each summary of points I have raised addresses all of the provisions of the Bill. The Memorandum of Objects and Reasons in the Bill provides for the creation and issue of a registered stock for the purpose of enabling the Government to raise funds for projects in the Cayman Islands.

Clause 1 provides the short title of the Bill. Clause 2 is a definition clause and clause 3 provides that the Bill will be applicable only to loans raised for the Cayman Islands.

Clause 4 provides that whenever, by any law or a resolution of the Legislative Assembly, authority is given to the Governor in Council to raise any money by way of a loan, for any purpose mentioned in that law or resolution—or whenever it is necessary to raise any sum of money for the purpose of repaying any loan raised by the government under this or any other law or a resolution of the Legislative Assembly—the Governor in Council may, from time to time, raise such sums, or any part thereof, under the provisions of this Law by the creation and issue of a registered stock. So, Mr. Speaker, this points out very clearly that this Bill is intended as a vehicle to facilitate the raising of bond issues. It does not automatically give the right to the Government to engage in the raising of a bond issue before the appropriate approval is obtained from this Honourable House.

Clause 5 provides that the principal monies and interest represented or secured by any registered stock issued under the Law are charged upon and shall be payable out of the revenue of the Islands. This is not different from the present arrangement, in that, on each occasion when the Government raises a loan a Bill is brought to this Honourable House. When that Bill is brought it authorises the Government to raise the funds, and by so doing, similarly it creates an obligation on the part of the Government to settle the indebtedness. That is, it is referred to as a statutory commitment. That is why when the budget is brought to this Honourable House we have the operational side of it, the capital side and the statutory provisions which is what this clause deals with.

Clause 6 provides that the Financial Secretary shall give direction as to the name of the stock to be issued, and as to other related matters such direction shall be published in the Gazette so it is then known what is being done. The points that I have covered so

far in the Memorandum of Objects and Reasons fit very much into what has been described in the speaking notes that I have used and the explanations that I have given for this Bill. The country is not being left in the dark in terms of what this bond issue represents. What it represents was spoken of during the presentation of the Budget for the year 2002, during the presentation of the Strategic Policy Statement, on numerous other occasions in this Honourable House, and also as recent as the Finance Committee meeting that was held on Monday, the 16th of this week.

Therefore, Mr. Speaker, it is quite clear to the listening public of the Cayman Islands that what is being brought today is a Bill to put in place an arrangement that authorises the Government to raise a bond issue. Simply put, when that is raised, first of all, the authorisation must be in place, which comes through legislation. When the money is raised, it creates a statutory obligation that will have to be satisfied and this is why the sinking fund is implemented. Simply, it is an account that is being opened. Protection is being given because if the Government is the one that benefits from the borrowing and then they turn around and manage the account, the Government of the Cayman Islands has enjoyed a solid reputation up to this point in time and will continue to do so into the future. However, prudence would suggest that when you are dealing with third parties who want to make sure that you have arm's-length dealings in what is being done, they want to make sure that the monies that are being taken out of general revenue are put beyond the reach of the Government.

The Monetary Authority is being appointed as the register of the stock to make sure that for all of the institutions that will be subscribing to the bond issue, first of all, a record will be kept of their names; how much money; the value of the stock that they have purchased; they will be apprised of when interest payments are due; who should receive remittance in terms of the interest payments and at the maturity of the stock who should receive final settlement. This is what this Bill is about. It does not go any further than that. It says that while this is a capstone to provide a vehicle to authorise the Government to raise bond issues, starting with the one that will be introduced quite soon (\$136 million), it means that under this specific piece of legislation any borrowings must be authorised by way of a resolution.

The 47 clauses go into specific provisions. For example, the setting up of the sinking fund, who the trustees should be, who should have management of it, that type of detail can become somewhat monotonous, and it would seem to me that it would be useful for this to be summarised. Simply put, what I have described is, in substance, what the Bill is about and I think it is quite clear to Honourable Members of this House and to the public at large why this Bill is being introduced at this time.

The Deputy Speaker: The question is that a Bill shortly entitled The Cayman Islands Registered Stock Bill, 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed. The Cayman Islands Registered Stock Bill, 2002 given a Second Reading.

The Monetary Authority (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of a Bill entitled The Monetary Authority (Amendment) Bill, 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. George A. McCarthy: Thank you, Mr. Speaker. In moving the Second Reading of the Monetary Authority Law, 2002, also connected with this piece of legislation are additional amendments which are necessary to facilitate the granting of independence to the Monetary Authority. The required regulatory laws to be amended are: the Banks and Trust Companies Law, the Mutual Funds Law, the Insurance Law, the Money Services Law, and the Companies Management Law. While the Monetary Authority Law is a capstone piece of legislation, the others are the regulatory pieces of legislation, and wherever reference is made to the Governor in Council such references will have to be deleted and substituted with the Monetary Authority. This is why we have six amending Bills in front of this Honourable House today, but the primary Bill is the Monetary Authority Law (2002 Revision). The rest are connected pieces of legislation and incidental to the amending Monetary Authority Bill.

Mr. Speaker, the amending Bill is to make provision for the operational independence of the Monetary Authority and to empower the Monetary Authority to further regulate financial services business operating from within the Cayman Islands and to make provisions for incidental and connected matters.

Mr. Speaker, the rationale for introducing the Bill can be summarised as follows: in response to the recommendations of the KPMG review of financial regulations in the Cayman Islands released in February 2000, the government of the day made a commitment to enact legislation to allow for the operational independence of the Cayman Islands Monetary Authority (CIMA). This commitment has been reiterated by the current Government.

Implementation of this recommendation would bring the Cayman Islands in line with accepted inter-

national standards with respect to the role of the regulatory authority established by the Basel Committee on banking supervision, the International Association of Insurance Supervisors, the International Organization of Insurance Supervisors and International Organization of Securities Commission. This Bill, along with the accompanying Bills to amend the Banks and Trust Companies Law, the Mutual Funds Law, the Insurance Law, the Money Services Law, and the Companies Management Law, is intended to give effect to the operational independence of the Monetary Authority.

Mr. Speaker, operational independence for the Monetary Authority is to allow the regulator to pursue the most appropriate policies and actions based on professional judgment, without undue pressure or influence from political or executive powers, or from the economic interest of individual entities or industry sectors. Operational independence also requires that there should be a proper system to ensure that the Cayman Islands Monetary Authority operates on a value-for-money basis and that it does not abuse its powers in any way. This will necessitate the increased transparency of its operations and formal procedures to account for its actions to government and other stakeholders. The principles are reflected in the provisions of the Bill.

Mr. Speaker, I will now address some of the key amendments in the Bill. I do not propose to go through all of the amendments, as I believe that they are described in the Memorandum of Objects and Reasons.

The principal purpose of the Bill is to make provision, as I mentioned earlier, for the operational independence of the Monetary Authority. The Bill, among other things, produces a clear statement of the principal functions of the authority and makes changes to the composition and tenure of the board of directors. In this regard, the board will consist of a maximum of ten members, one of whom will be the managing director as an *ex officio* member of the board. The period of appointment of the board members will be set at three years, subject to re-appointment, instead of the current five years as set out in the Law. The appointment of the managing director will continue to be made by Executive Council, but following consultation with the board of directors. Another significant change is that Official Members of Executive Council will no longer be eligible to serve on the board of directors. It follows, therefore, that the Financial Secretary will no longer serve as chairman of the board of directors or as a member of the board once this amendment to the legislation comes into effect. The Bill also establishes in law a management committee which will carry out functions delegated by the board of directors, including some licensing functions in the first instance. The board will be empowered to issue guidelines and policy directives to assist the management committee and any other committee

established by the board with regards to the exercise of their functions.

Mr. Speaker, the Bill also empowers the authority to issue rules or statements of guidance concerning the conduct of licencees and provide for the imposition of penalties for breach of said rules or guidance. The Bill further 'ring fences' the currency reserve by declaring that the assets of the currency board shall not be subject to any order for injunction, execution, or similar order in any proceedings before any court or tribunal.

The Bill inserts new sections 34 through 37, setting out the financial provisions applicable to the Authority. The funds and the resources of the Authority are set out in the new section 34. The new section 35 provides that the financial year end of the Monetary Authority shall be 30th June. The new section 36 states that The Public Management and Finance Law also applies to the Authority for, among other things, its expenditure budget for each financial year and in preparation, maintenance, auditing and publication of the Authority's accounts. As such, Mr. Speaker, this will provide for the Auditor General to conduct audits and investigations into the financial management of the Authority and for the Financial Secretary to require examination of the accounts of the Authority.

The Monetary Authority will also be required to prepare and submit half yearly annual reports, including financial statements on the performance of the Authority which will be provided to the Government and presented to this Honourable House within a specified time. Once tabled, these reports will become public documents accessible to any member of the public upon payment of a copying charge. Section 37 relates to the method of dealing with any surplus on the budget of the Authority and allows for any surplus to be paid into general revenue.

Mr. Speaker, on behalf of the Government, I would like to say thanks to the financial industry for their observation of this Bill when it was being attempted to be put through this Honourable House. The financial industry raised certain concerns. Firstly, they commented on the short time span at which the Bill was being brought—and the connected Bills—and they pointed out that they did not have enough time to review the legislation. Mr. Speaker, credit should be given where credit is due. This was followed by an exhaustive review and I have to say thanks to the Senior Assistant Secretary in the Financial Secretary's Office, Ms. Leticia Solomon, who chaired a committee comprised of both representatives of the financial industry and representatives of CIMA in order to bring together the collective views on what should be encompassed within the Monetary Authority legislation. Mr. Speaker, I want to say on behalf of Ms. Solomon, and also the Government, thanks to the many members of the financial industry who met on many occasions into the late night hours to look very carefully at the legislation that we have in front of us.

What we have in front of us today means that both sides had to give a bit in order to achieve what is before this Honourable House. There was one aspect that the financial industry felt needed to be tightened up which was the accountability process. In this regard, there is an amendment that will be made during the Committee stage to address the concerns raised by the financial community and advise this Honourable House.

Sections of the Public Management and Finance Law dealing with the statutory authorities make very good provisions in terms of the reports that will have to be produced by each statutory authority; establish their accountability to central government and also point out that the reports will be tabled in the Legislative Assembly within specified time limits.

Mr. Speaker, the amendment that will be dealt with during the Committee stage will allow for the appointment of individuals to carry out the reviews by the Government of the activities of the Monetary Authority. This is an appropriate amendment and should give completeness to the legislation as it now stands. Granted an exhaustive review has been carried out, as usual it cannot be expected that we have pieces of legislation that will not have to be revisited from time to time. In essence, the Bills that we have in front of us, primarily the Monetary Authority Amending Bill, have been exhaustively reviewed by both the Government and the financial industry. I thank Honourable Ministers and Members of Executive Council for the extensive hours that have been spent considering those matters where a resolution could not be arrived at between the financial industry and the private sector and the Government had to be the arbitrator.

The Bill that we have in front of us has been sent to the point person appointed by the private sector organisations to represent their interests. The only observation that came back from that individual was the point, as I mentioned earlier, that has been addressed, to allow for greater accountability to take place. Therefore, what we have here is the amending Bill that has been thoroughly reviewed and examined very carefully, as well as other Bills on which I will be making short remarks. However, the comments will not be more than to say that these amendments are necessary to ensure the operational independence of the Monetary Authority by deleting references to the Governor in Council and substituting the Monetary Authority in place of such reference.

With these remarks, Mr. Speaker, I commend this Bill to Honourable Members.

The Deputy Speaker: Does any other Member wish to speak? The Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. I am delighted to say that for the first time in a long time that this is a matter which I can support to a proposal of the Government.

This Monetary Authority Bill has been mooted, as the Honourable Third Official Member has said, for quite some time. As he also said, operational independence of the Monetary Authority has been one of the outstanding issues which will, hopefully, now that we are reaching the point where that would have been achieved, make our regulatory regime in these Islands better and above that which obtains in most other jurisdictions.

Mr. Speaker, Honourable I was very pleased that even at the late stage of this morning, the Honourable Third Official Member and the Government were prepared to listen to proposed changes which will come in the form of the Committee stage amendment to ensure that the Monetary Authority is accountable to both the Legislative Assembly of these Islands and Executive Council.

The way the Monetary Authority has been forced to develop in response to the financial initiatives, and the international pressure that then accompanied, has resulted in significant growth both in terms of size and the ambit of responsibilities and functions. It has all happened very quickly, over the course of the last two or three years, and that result in growth and increased oversight has created certain misgivings within the industry about the Monetary Authority's objectives, practices, policies, efficiencies and technical knowledge, and indeed, perhaps most importantly, its loyalty to the country and to the long-term success of the financial sector. That is understandable as both the Monetary Authority and the financial sector seek to come to grips with the new 'world order' that obtains now with increased regulation and oversight.

Mr. Speaker, for a while it may have seemed to many in the financial sector that in creating the Monetary Authority and expanding its functions and responsibilities, we might well have been creating a monster that would ultimately destroy the very industry it was being designed to regulate. Even now there are some who believe that the Monetary Authority should have some sort of god-like status and be accountable to none, and this is often on the basis that the Monetary Authority needs to be free of political influence and interference.

One of the harsh realities of this civilised world that we live in is that there is no such thing as an apolitical decision when it comes to these matters. It is simply a question of who exercises that political decision-making. If anyone believes that anything Her Majesty's Government does is apolitical, then they really need to rethink that.

What this legislation seeks to achieve, which in my view is entirely in order, is operational independence of the Monetary Authority, that is, relieving Executive Council of the responsibility for day-to-day decisions in relation to the granting of licences. It is vital that these important decisions be outside influence from Government or, indeed, from the private sector because these decisions need to be taken

quite objectively. For it to be suggested as it has been in some quarters that this concept of independence should be taken further and that Government should adopt a hands-off approach to the financial sector and its regulation, in my respectful view, is completely wrong and potentially disastrous.

If this Government does not have control, oversight and the ability to determine policy in relation to the Monetary Authority, then I promise you someone else will and that someone else will not have our best interest in mind. Perhaps that has been part of the long-term plan. That is why we have put forward, and the private sector before us, the proposal that the Bill which we are about to pass which will become Law should make clear provision for the accountability of the Monetary Authority to both Executive Council and to this Honourable Legislative Assembly.

Mr. Speaker, the financial services industry world-wide is going through a transitional stage in which the large jurisdictions, some other agencies and the various international bodies that are in control are endeavoring to change the rules and practices in relation to financial services all around the world. A large part of that effort is being aimed at redefining the role of the regulators.

As we have experienced only too painfully over the last few years, they have focused particularly on the offshore jurisdictions. There is no doubt that many of these major players are bound and determined to make the offshore jurisdictions, and particularly the Cayman Islands, as unpopular and unprofitable a place to do business as possible. The more unprofitable we are, the more difficult it is to do business; and the more expensive it is to do business in this jurisdiction, the more likely it is that our clients and customers will seek to find refuge somewhere else and we must never lose sight of that.

The big countries, and the UK in particular, are not doing what they are doing and insisting on the type of regulatory framework that they have insisted on simply because they want us to be 'cleaner than clean and whiter than white'. They are doing it to advance their own particular interests, and we must not allow them to persuade us to use our regulatory regime, the Monetary Authority, as a vehicle or as an instrument to achieve that particular end. Now, granted as we well know from the recent threat, if they want to do something badly enough they will threaten orders in Council and the likes. However, by all means let us resist them using our own agencies and people to undermine the financial industry that we have worked so hard to develop. If they want to do it then let them do it from London so all will see that is how Mother England treats Her Overseas Territories. Let us not play ball with them and allow them to use us and our agencies here to achieve their ulterior purposes.

Mr. Speaker, the Bill addresses a lot of the concerns, and it has taken a lot of time, pushing, shoving, disagreements and arguments. It has ad-

ressed a lot of the concerns of the private sector to ensure that when decisions are taken by the Monetary Authority in relation to changes in policy and the likes, there is adequate consultation with the private sector before these changes are effected. This is important because while there are those who say otherwise, we have to view all of the players in the financial sector in this country as partners. We cannot adopt, as they have sought to have us do, this attitude that the Monetary Authority is the big, bad regulator and those who work in the financial industry should cower in fear of what the Monetary Authority will do to them if they somehow transgress the Law. It must be seen as it has been hitherto, that this is all part of the framework which makes the Cayman Islands such a good place to do business. The regulator is there to ensure compliance with the Law and regulations, and I would not seek to make a case that somehow the Monetary Authority should be soft on those who do not follow the Law.

However, neither should the Monetary Authority be some sort of regulatory ogre which overshadows the entire industry because that is not the way we have operated in the past. I am confident that a great reason for our success thus far has been the partnership which existed between the Monetary Authority, its predecessor agencies and the financial sector as a whole. This Bill is now truly a product of long, careful consultation, and I believe that as a result of that the Bill is better for it, the industry will be better for it, regulation of the industry will be better for it and in the long-term, the Cayman Islands, as a whole, will be the better as a result of that process.

Mr. Speaker, in terms of the accountability to which the Honourable Third Official Member spoke and which I have just referred to, the Bill presently does not provide, in my respectful view, sufficient accountability, and it is to that which the proposed Committee stage amendment will speak. It is important that both Executive Council and this Honourable Legislative Assembly continue to have supervision of what transpires at the Monetary Authority, though not control and oversight of day-to-day decision-making. One of the ways that will be achieved is, as the Bill does do, rendering the Authority subject to the provisions of the Public Management and Finance Law, which will require the Authority to prepare and submit half yearly annual reports both to the Executive Council and to this Legislative Assembly, thereby enabling Members of both of those bodies the opportunity to ask questions and hopefully receive suitable responses.

The other two aspects which the Bill, in its current form, does not address but which have been addressed in the proposed Committee stage amendments are giving Executive Council the ability to appoint an independent person to review the Authority's performance of its functions, as well as the ability to appoint an independent person to inquire into any action or inaction of the Authority which appears to raise

questions of importance to the public interest. It is critically important that the Monetary Authority board does not come to believe, because of the absence of such provisions in the legislation, that it has some god-like quality and is accountable to no one. As I said, I am most pleased that those Committee stage amendments are being proposed.

Of equal importance—and again, underlining the need for the Government to still have the kind of oversight and control of the Monetary Authority which I have argued it needs—is the whole question of how we deal with the 'international initiatives' as they have been termed. We cannot get to a position where decisions about how we address the international initiatives are left to the Monetary Authority. Obviously, the input from the Monetary Authority is most necessary and will be most helpful in determining what the policy should be in relation to any particular matter.

However, it cannot be that the decision making is left to the Monetary Authority; those critically important policy decisions must remain with the elected Government. I believe this will be achieved by the Bill, in its current form, including the proposed Committee stage amendments which I believe will strike the right balance. There will be those who think that it is not independent enough. I urge the Government to hold their ground and resist the entreaties of those who come as though they are friends, to seek to persuade us that Executive Council needs to step even further away from the Monetary Authority because, otherwise, it will not be legitimate. I have heard all sorts of nonsense put forward before, but in each case it has been put forward by persons who have a vested interest elsewhere. We must recognise those who bring these messages, where they come from, what they are seeking to achieve and resist it with everything within us.

I do not often agree with the Government, but I can assure them that on this particular point they have an ally. It was my position long before I was privileged to be a Member of this Honourable House. We must recognise who people are, what they stand for and what they seek to achieve before we listen to what they give us as friendly advice.

Mr. Speaker, I am happy to say what I did not think I would be able to say last night, which is that I can give my support, and the support of the Opposition, to the proposed amendments to the Monetary Authority Law and, indeed, the consequential amendments to the other affected legislation.

I thank you, Mr. Speaker.

The Deputy Speaker: Does any other Member wish to speak?

The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Mr. Speaker, I also rise in support of the Bill, of course, to amend the Monetary Authority Law and the consequential Bills to amend

the respective regulatory laws, to make provision for the operational independence of the Cayman Islands Monetary Authority and to empower the Authority to further regulate financial services businesses operating from within the Cayman Islands.

Mr. Speaker, as this Honourable House is aware, in its response to the recommendations of the KPMG Report on Financial Regulation in Cayman, the government of the day made a commitment to enact legislation to allow for the operational independence of the Cayman Islands Monetary Authority. This commitment to independence has been a key objective of our Government and, therefore, I am pleased to be able to stand before the House to support the passing of these Bills.

The process leading up to this historic moment has been a lengthy one. By choice, as this legislation is very important and this Government wanted to ensure that at all times the interests of the Cayman Islands and its people were protected, the Government made sure that the legislation received extensive consultation with the financial services industry in keeping with our policy of facilitating the partnership between government and the private sector. After all, it is the financial industry the Authority is regulating, and it was therefore important that their recommendations and concerns be acknowledged in the interest of striking a balance so that we achieve a regulatory environment that supports rather than suppresses growth.

Mr. Speaker, as Leader of Government I have given the financial sector the undertaking that there will be no more regulation unless the financial industry is fully consulted and made aware at all stages of impending regulation or legislation. We are a pro-business Government and are working together with the financial sector to allow the industry to grow. That is why on Budget Day we produced a plan for the way forward, a centre of excellence which is a reworking and enhancing support for the financial industry. It was the first time that was done.

The consultation process for this particular piece of legislation included representatives of the Portfolio of Finance and Economics, along with the Monetary Authority and the private sector consultative committee. Proposals for amendments to the legislation were put forward by all, and the Government carefully scrutinised each recommendation to ensure that the decisions taken were in line with the strategic policy objectives of the Government and in the best interest of the Cayman Islands. We, the Government, felt it was necessary that we not proceed hastily into passing this legislation despite pressures from external forces because were we to get this legislation wrong then this could be to the detriment of our whole economy. After all, the financial services industry is one of the two main pillars of our economy and it was vital that we ensured that it continued to flourish.

One may question what it means for the Authority to be given operational independence. In a nutshell, it means that the Authority will now be able to

exercise its functions of licensing, supervision, inspection, investigation and enforcement independent of external, political or commercial interference. It does not mean that the Government will adopt a hands-off approach towards the financial sector and its regulation. No one needs to try to give that impression. This would not be in keeping with any of the internationally accepted standards to which Cayman subscribes, especially by the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors and the International Organization of Securities Commissions. It also does not mean that the Authority will be operating in isolation. It will have to consult with the Government and our private sector before seeking to make any changes to broad regulatory policy or changes which have national policy implications or which have significant implications for the industry.

The Authority will and shall still be publicly accountable for its actions. Operational independence requires that there should be a proper system of accountability to ensure that the Authority operates on a value-for-money basis and that it does not abuse its powers in any way. This will necessitate increased transparency with operations and formal procedures to account for its actions to Government and other stakeholders. As such then, the Authority as a statutory body will be publicly accountable for its actions to the Government in accordance with the Public Management and Finance Law, 2001. In addition, a further section will be included in the legislation at Committee stage and it is proposed to amend clause 20 to include a new section which provides for the Governor to appoint an independent person to undertake a review of the Authority's performance and make a report along with recommendations to the Financial Secretary. That report shall be laid before the Honourable Legislative Assembly.

Mr. Speaker, the Authority will also be accountable to the financial services industry and must be able to demonstrate to the industry that its approach to supervision is reasonable, effective in achieving its objectives and proportional to the benefit and cost of compliance by the institutions. That is why the consultation process, which is allowed for in the Monetary Authority Bill, is a critical feature of this particular piece of legislation. In accordance with the legislation, the Government has recently appointed three new members to the board of directors; two well-known members, Mr. Linburgh Martin and Mr. Timothy Ridley, OBE, are outstanding citizens in the community and have provided valuable contributions to the shaping of the financial services industry in Cayman. The other director, Dr. Richard Ran, is from the United States and he is an economist by trade and of high international repute, with a vast amount of experience, particularly in the United States Congress.

This has created a very dynamic board to lead the Monetary Authority through this period of change. The board is aware of the necessity to ensure continu-

ity of process during and after the transition to operational independence and to offer confidence to the Government and to markets that there will be continuity and consistency in the overall approach to regulatory matters. To help achieve this, provisions have been made in the legislation for the board to publish a regulatory handbook in consultation with the Government which will set out policy guidelines and procedures that will define the way in which the Authority will deal with key issues in performing its regulatory and co-operative functions. No doubt there will be challenges ahead. However, we are confident that the staff, management and board of the Authority will rise to those challenges with the support of the financial services industry and will endeavour to further enhance our sound, regulatory regime to facilitate growth of our financial services industry, thus enabling Cayman to retain its position as a premier international financial centre.

The Second Elected Member for George Town entreated the Government to hold our ground. The Member spoke generally about what the UK would do and what we should not allow them to do, and all that is true. He is right. We should not give the United Kingdom, Europe, or anyone else, an in, and we are vigilant. What is most important is that their leader of their Party is partly to blame because he failed to act in the European Union Tax Saving Initiative. So I guess he has every right now to warn us about what the possibilities are. The Government now has leadership. I am proud that we have a manager who the Government has confidence in and staff at that Authority that has Cayman's interests at heart, and I want to say a word of thanks to them publicly for their efforts in safeguarding our future. We are not going to agree with them at all times, or perhaps the financial industry is not going to agree with them at all times, but we have to give credit where credit is due. They have been doing a good job thus far and we must thank and recognise them, at the same time reassuring the financial industry that this Government is in lockstep with them. We are pro-business, willing to work and to listen and to act when it is necessary.

As I said, we will rise to the challenges and will endeavour to further enhance our sound regulatory regime to facilitate growth while enabling Cayman to retain our position as a premier international financial centre and recognition internationally. I am glad that through this legislation we are fulfilling a campaign promise in making the Authority independent. That is one of my election campaign platforms and I am glad that we are at this stage.

The Deputy Speaker: Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: Mr. Speaker, I would like to say thanks to Honourable Members for their sup-

port of this very important piece of legislation. I would like to say thanks to the Honourable Leader of Government Business because I was at the Westin and also at the Hyatt conference room when he gave the commitment to the financial industry that the Government intends to consult before any further pieces of regulatory legislation are brought. That is very important because given the time during which we are operating, Cayman and Cayman alone, together with the other Caribbean Overseas Territories, will have to look after their own respective interests.

Mr. Speaker, the Honourable Second Elected Member for George Town raised a point that he is in agreement with the Government in terms of ensuring that the responsibility for dealing with international initiatives remains with the Government. Upon until this morning, a statement was given in this Honourable House by the Leader of Government Business concerning EU activities. It is very good that the public is being kept apprised as to what is happening there, and it is quite unfortunate that the United Kingdom takes the position it has asserted or maintains the position in terms of what it intends to do.

I recall we hosted the Commonwealth Finance Ministers' Meeting here in 2000. The Cayman Islands being an Overseas Territory of the United Kingdom, that meeting should have been chaired by the Chancellor of the Exchequer in the United Kingdom. The Chancellor refused to come to the Cayman Islands, but we had one of the best Commonwealth Finance Ministers' meetings that was ever hosted and all of the delegates that came to the Cayman Islands—Prime Ministers, Ministers of Finance, Ambassadors and so on—complimented the success of what they saw in the Cayman Islands and how well the conference was organised. I subsequently came to understand that the Lord Mayor of London was putting together his plans for a vacation and it would entail having to travel through the Caribbean. I was told that he was advised to stay away from places like the Cayman Islands. It was said that having his presence here would lend credibility to the Cayman Islands' position as an international financial centre. I have the highest regard for the Lord Mayor of London; I do not know who he is. However, I say the Cayman Islands do not need any endorsement of anyone from outside of the Cayman Islands in order to establish its reputation as a well-managed international financial centre.

I am proud of the people of the Cayman Islands. I am proud of the Cayman Islands. I have travelled to various conferences, Mr. Speaker, and the Cayman Islands have always been able to represent its position quite clearly and by default often times finds itself taking on the leadership role. We have come a long way and we have a long way to go. Collectively, we will continue to move from success to success. We will have challenges such as what we are now facing, but the point that has been made in terms of the Government maintaining the mandate in terms of dealing with international initiatives is very

important. What is being done today through this piece of legislation is to ensure that the Monetary Authority effectively performs its role as an efficient regulator and we have the expertise in place as outlined by the Leader of Government Business to achieve this.

Mr. Speaker, I would like to say thanks to quite a number of persons. I would like to mention, once again, Ms. Leticia Solomon, who has done a fantastic job in terms of balancing the views and making her direct input into the review process. Often times, the Government is not in a position of paying bonuses to employees, but I will be recommending an honourarium for Ms. Solomon. Given the many late nights, weekends and mornings that she has spent on this piece of legislation, and other pieces of legislation, it is appropriate that appreciation be shown.

Other persons who have had significant input from the Attorney General's office are Mrs. Myrtle Brandt, the First Legislative Counsel and Ms. Cheryl Neblett, Senior Legislative Counsel. I would like to say thanks to the Attorney General because he has never hesitated in making the expertise of these persons available.

From the financial industry I would like to thank Mr. Anton Duckworth because he has put in many hours in representing the private sector's interest in these pieces of legislation. I would also like to say thanks to Mr. Langston Sibbles from the Monetary Authority. Also, thanks to Mr. Michael Alberga, who has been very forceful in putting forward his views to the Government, and also speaking up, when necessary. There are numerous people and I have not mentioned all who have participated in the process.

Once again, I would like to say thanks to the Leader of Government Business, the Ministers and Members of Executive Council for their support and also the support of the entire House for dealing with this piece of legislation. Thank you very much, Mr. Speaker.

The Deputy Speaker: The question is that a Bill shortly entitled The Monetary Authority (Amendment) Bill, 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Monetary Authority (Amendment) Bill, 2002 given a Second Reading.

The Banks and Trust Companies (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the second reading of a Bill entitled The Banks and Trust Companies (Amendment) Bill, 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

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

As indicated by the title of this Bill, this Bill is intended to amend the Banks and Trust Companies Law (2001 Revision) to transfer the licensing powers of Executive Council in relation to banks and trust companies to the Cayman Islands Monetary Authority. It is also intended to enhance the powers of the Authority to regulate licencees in a more direct and effective manner than under the existing Law. Again, I do not intend to restate the Memorandum of Objects and Reasons which set out in more detail the specific amendments, but I will highlight the main changes that will occur as a result of this Bill.

The Bill will effectively transfer the current licensing and supervisory powers exercised by Executive Council in relation to banks and trust companies. This includes, among other things, the power to consent to the transfer or disposal of shares; to specify net work requirements prior to the grant of certain licences to a bank or trust company; approvals with respect to the use of the words "bank" or "trust company" in the business title of a person or entity other than a licencee; the power to take certain action to ensure compliance with the law, for example, to impose cancellation on a licence, to appoint a controller for a business or to revoke a licence to apply to the Courts for the licencee to be wound up and the power to approve surrender of a licence. The Bill will also expressly make an unpaid annual fee a civil debt, thereby allowing the Government to take civil action in court to recover fees, as well as any penalties payable for late payment of fees.

I commend this Bill to Honourable Members, Mr. Speaker.

The Deputy Speaker: Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: To say thanks to Honourable Members for their support, Mr. Speaker.

The Deputy Speaker: The question is that a Bill shortly entitled The Banks and Trust Companies (Amendment) Bill, 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Banks and Trust Companies (Amendment) Bill, 2002 given a Second Reading.**The Mutual Funds (Amendment) Bill, 2002**

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of The Mutual Funds (Amendment) Bill, 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Member wish to speak thereto?

Hon. George A. McCarthy: Mr. Speaker, the main objective of this Bill is to transfer licensing and enforcement powers in relation to the mutual funds administrators to the Monetary Authority. It should be noted that the Authority already exercises these powers in relation to Mutual Funds under existing law. The transfer of power will allow the Monetary Authority to move directly and regulate the activities of mutual fund administrators instead of having to go through Executive Council. The Bill will, among other things, transfer the following powers: -

- o the power to determine application for Mutual Fund administrators' licences,
- o the power to exempt a Mutual Fund administrator from obtaining a licence,
- o the power to consent to the transfer or disposal of the shares of a licensee,
- o the power to make enforcement action for non-compliance within the law, including the power to impose conditions on a licence,
- o to appoint an advisor or a controller of the licensee, to revoke a licence where the licensee is a company to apply to the court for the company to be wound up.

Mr. Speaker, another significant feature of this Bill is that it provides for an appeal from the decision of revoking a Mutual Funds licence or a Mutual Fund administrator's licence. This provision is not included in the existing Law and will, therefore, give the licensees affected an opportunity to challenge decisions in relation to revocation of licensees by way of an appeal. I commend this Bill to Honourable Members.

The Deputy Speaker: Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: To say thanks to Honourable Members for their support, Mr. Speaker.

The Deputy Speaker: The question is that a Bill shortly entitled The Mutual Funds (Amendment) Bill,

2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Mutual Funds (Amendment) Bill, 2002 given a Second Reading.**The Insurance (Amendment) Bill, 2002**

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of the Insurance Law, 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. George A. McCarthy: Mr. Speaker, I am being encouraged from all sides to operate with aviation fuel.

(Laughter)

Hon. George A. McCarthy: Mr. Speaker, the main objective of this Bill is again to transfer licensing and enforcement powers in relation to licensees under the Insurance Law from Executive Council to the Monetary Authority, to give effect to the operational independence of the Authority.

Main Provisions

Like the previous Bill, in relation to the banks and trust companies and the Mutual Fund administrators, the

Bill will transfer from Executive Council to the Monetary Authority a similar range of powers in relation to determining applications for the licences, the recognition of actuaries and auditors, the use of the word "insurance" in business names, the power to take enforcement action up to and including revocation of a licence and the power to approve the surrender for licence. The Bill sets out how appeals from decisions made by the Governor in Council are to be dealt with, which are not determined at the time when the amendments come into force. I commend this Bill to Honourable Members.

The Deputy Speaker: Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: Thanks for this very great support, Mr. Speaker.

The Deputy Speaker: The question is that a Bill shortly entitled The Insurance (Amendment) Bill, 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Insurance (Amendment) Bill, 2002 given a Second Reading.

The Money Services (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: (*Laughter*) I am speeding up. Mr. Speaker, I beg to move the Second Reading of the Money Services (Amendment) Bill, 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. George A. McCarthy: Mr. Speaker, the objective of this Bill is simply to allow the Government to sue for unpaid fees in court. These amendments will bring the Money Services Law, 2000 in-line with similar amendments in other regulatory laws, in order to give effect to the operational independence of the Monetary Authority. Licensing and enforcement powers are already exercisable by the Authority directly under existing Law. I commend this Bill to Honourable Members.

The Deputy Speaker: Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: Again to say thanks to Honourable Members for their support, Mr. Speaker.

The Deputy Speaker: The question is that a Bill shortly entitled, The Money Services (Amendment) Bill 2002 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Money Services (Amendment) Bill, 2002 given a Second Reading.

The Companies Management (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of a Bill entitled The Companies Management (Amendment) Bill, 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. George A. McCarthy: Mr. Speaker, the Bill will transfer existing powers under the Companies Management Law from Executive Council to the Monetary Authority in relation to the determination of the application for licences; the power to consent to the transfer and disposal of shares; the power to take enforcement actions to ensure compliance with the law, up to and including the power of revocation of a licence and to apply to the court for the winding up of the licensee. The Bill completes a package of legislation required to give legislative effect to the operational independence of the Authority. Accordingly, I commend this Bill to Honourable Members.

The Deputy Speaker: Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: To say thanks to Honourable Members for their support, Mr. Speaker.

The Deputy Speaker: The question is that a Bill shortly entitled The Companies Management (Amendment) Bill, 2002 be given a Second Reading. All those in favour please say Aye. Those against, No. **Ayes.**

The Deputy Speaker: The Ayes have it.

Agreed: The Companies Management (Amendment) Bill, 2002 given a Second Reading.

The Deputy Speaker: Madam Clerk, so as to give the Third Official Member a little breathing room we could move back to the Marine Conservation Bill that was deferred earlier.

The Marine Conservation (Amendment) (No.2) Bill, 2002

The Deputy Speaker: The Honourable Minister for Tourism, the Leader of Government Business.

Hon. W. McKeever Bush: Mr. Speaker, I beg to move a Bill standing in my name, The Marine Conservation (Amendment) (No.2) Bill, 2002.

The Deputy Speaker: The Bill has been duly moved. Does the Mover wish to speak thereto?

Hon. W. McKeeva Bush: Thank you very much, Mr. Speaker.

Before I move to the Bill, I want to apologise for not being here to move the Bills standing in my name earlier. I had to be present at the Turtle Farm to perform an official duty. The Member for George Town is asking if I was going to stew turtle, and in the jest of Christmas he knows that his Leader is best at that and not the Leader of Government Business.

(Laughter)

Hon. W. McKeeva Bush: Mr. Speaker, Honourable Members will be aware that the recent amendment to the Marine Conservation Law introduced the requirement for residents who do not possess Caymanian status and those on work permits to obtain a fishing licence. At the time the amendment was introduced, I explained that the objective of the amendment was to curtail the growing practice of certain nationalities taking large quantities of juvenile fish from our waters and a monthly license fee of \$1,000 was set as the deterrent.

Mr. Speaker, in addition, Honourable Members will recall that during the debate on the amendment when objections arose, I also said that should the new measures prove to be restrictive I would be happy to revisit the issue. Since the passage of the Amendment Law, the Ministry and the Department of Environment, as well as Members of the House, have received numerous representations on the matter of the fishing licence from Caymanians and residents alike.

As promised, I have listened to the various opinions and points of view, and after due consideration I now bring to this Honourable House a further amendment which I believe will address legitimate concerns expressed while still achieving the objective of the original amendment. This new amendment would change the requirements for a fishing licence such that only those persons who are resident on the Islands and who do not possess Caymanian status, or are on a work permit or who are fishing from shore or in shallow waters, will require a licence. Persons resident on the Islands who engage in the type of sport fishing known as 'catch and release' fishing will not be required to obtain a fishing licence.

In addition, it is proposed that the fishing licences will be for a period of one month at a licence fee of \$150 per month, or alternatively, for one year at a fee of \$400 per year. What this means is that the vast majority of concerns regarding negative impacts on fishing tournaments, charter boat operators and other local marine businesses should fall away. In addition, the much reduced licence fee should allow all residents who fish as a means of relaxation and recreation to continue to enjoy this activity. In fact, anyone, Caymanian or resident, fishing from a boat and those people who engage in catch and release fishing from the shore will be able to continue this form of

recreation at no cost. However, Mr. Speaker, as I have previously outlined, all non-Caymanian residents and those on work permits will be required to have a fishing licence in order to catch fish, consumption from the shore, including from docks and jetties or when wading out in shallow water.

Mr. Speaker, in summary we believe that this legislation, as it is now presented, more accurately targets the destructive fishing practices that the original amendment sought to address, that is, the non-traditional taking of small juvenile fish from the shallow waters around our Islands. I am sure that even this amendment will not please everyone. Nevertheless, the Government has a responsibility to protect our natural resources for future generations. In order to do this today, we must achieve a balance between Caymanians' traditional right of access to our marine resources, the importance of those same resources to our tourism product and the growing pressures placed on our fragile resources by an increasing multi-cultural population.

Mr. Speaker, I believe that this amendment achieves this balance and I urge Honourable Members to support the Bill.

The Deputy Speaker: Does any other Member wish to speak? The Second Elected Member for the district of George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Mr. Speaker. Here we go again, amending a piece of

legislation which we amended a mere two weeks ago – two weeks to the day. "Experience keepeth a dear school, but [fools] will learn no other." This is further testament to the foresight, judgment and organisational abilities of the Leader of Government Business. This is precisely what happens when important changes to legislation are rushed through this House without adequate thought and analysis. We were given notice of the amendment two weeks ago a few hours before it came to the Floor of this Honourable House, and those amendments were proposed at Committee stage when adequate debate would not normally happen and the issues could not be properly ventilated. We tried nonetheless, myself and the Elected Member for East End, to persuade the Leader of Government Business not to be so impetuous; not to be so bull-headed; not to insist on making these changes to the legislation without understanding what the implications would be. However, to give him his due, it has not taken long since he has been pilloried by the press and elsewhere for him to come back to this Honourable House and to propose amendments which, as he said, will not please everyone, but at least one can understand the logic behind the proposals.

He alluded to the consultation that has taken place since the passage of this amendment, but what he has gotten wrong—and I hope in the future he will

understand—is that consultation should precede the passage of important legislation, not follow it. That is the time when you consult; make sure you get it right. Otherwise, we make a mockery of this. This has become a ‘Mickey Mouse’ parliament where we change the same legislation every couple of weeks. We need to understand the importance of what it is we are doing and the implications of it before we rush off and do so.

With that said, Mr. Speaker, I am sure there will be those who will protest even the changes that are proposed now, but I believe that on behalf of the Opposition—and my good friend, the Elected Member for East End, I am sure will have his say as well—this is a change that we can support. It does have some problems because there are bound to be cries of discrimination and treating one sector of the community different than the other. That has to be weighed in the balance along with the need to protect the environment of these Islands because one marine life has disappeared we could have had the most equitable piece of legislation; it will not change that sad fact. Weighing those things I believe it is an amendment now that we on this side of this Honourable House can support, acknowledging that it is not perfect. However, nothing is really.

With those few words, Mr. Speaker, I thank you for the opportunity to offer this short contribution.

The Deputy Speaker: The Elected Member for the district of East End.

Mr. V. Arden McLean: Thank you, Mr. Speaker. I am going to try to resist saying “I told you so” because I know the Leader of Government Business expected me to say that. To amuse him I went ahead and said that.

(Chattering in background)

Mr. V. Arden McLean: Mr. Speaker, I supported the provisions for a fishing licence a long time ago, but certainly at Committee stage two weeks ago I could not support \$1,000 per month imposed upon anyone, be it foreigner, Caymanian or otherwise. At that time, my understanding of a fishing licence was to ensure that people coming into your country would understand they had to get a licence to fish. However, the purpose of levying a fee on a licence, as far as I understand it, was to ensure that those people who are avid fishermen and want to fish in this country would be provided, at the time, of applying for the licence with the necessary laws and conditions under which they fish. A fee merely brings those people into the offices and ensures that they are armed with all the law and regulations. I did not understand a licence to totally restrict anyone, thus I could not support it at Committee stage two weeks ago.

I believe, and I will forever defend my position, that it should all be about enforcement. If there is no

enforcement it is useless to legislate laws. I believe that the laws to protect the marine environment should be on limits, that is, amounts, species, sizes, and it should apply to everyone. To get it to apply to everyone we have to put the provisions in place to enforce the laws. I have been calling for the last two years since being elected, and prior to that, for more enforcement officers. This is the third time that the Marine Conservation Law has been amended since 2000, and on the two previous occasions I called for the same thing. If we are to preserve our marine environment, which is very essential and we all agree and support that, we need to hire more enforcement people. We have to arm the Department with the tools to ensure that the Law is carried out and if we do not, it is useless trying to legislate morality.

We expect that people are going to comply with it. That is true. We would like to think that, Mr. Speaker. Why then do we have Policemen in any country? We need enforcement officers. Alternatively, we need the Police to become a part of the enforcement arm.

Mr. Speaker, as the Second Elected Member for George Town said, while what I see in front of me is not perfect, it is certainly a step in the right direction from the \$1,000 per month that was legislated two weeks ago. I know there are going to be cries from quarters of discrimination and that is all well and good; but I too have had representation from Caymanians and foreign nationals and it has been mixed, particularly from the Caymanians.

Some Caymanians uphold that no one should be allowed to fish in our country; some foreign nationals uphold that it is discrimination against them. I would like to bring to the attention of those foreign nationals, that, when one travels to their country one has to get permission to fish. I am an avid fisherman. I have travelled to Canada, the United States and other places in the world and have inquired about fishing and the ability to fish. It was made quite clear that I had to receive a licence prior to fishing. I have fished for trout and the likes in Canada and America and it is very specific; they lay out the rules for you but you have to pay for that licence. Depending on where you are it varies in cost; in some places it is \$50 for one, single fishing trip.

The Government is not proposing that visitors to our country are charged a fee to fish, only the residents because they are long-term residents in this country, and certainly they would be the ones that would be more detrimental to our marine environment. The visitors who come here would most likely deep sea fish anyway, and the occasional bone fishing which provisions have been made for.

Mr. Speaker, the annual fishing license fee in this new Schedule is \$400, and a monthly fishing license fee is \$150. I am sure you will not see too many \$150s, which represents one month; most people will go for the full year if they are going to stay here. Then we may very well see the foreign nationals

buying boats to go out fishing, which would certainly stimulate the economy. However, the majority of the ornamental fish and the likes are close to the shore, and yes, I understand the objective is to try and stop them from taking those.

Sometime ago, I think it was the first time that the amendment came into Law, I spoke of how my uncle called me one day and told me that there were some foreign nationals by the Colliers beach with three 5-gallon buckets filled with white sea eggs. At the time I was quite angry and called for a ban on both the white and the black sea eggs. Subsequently, the Government brought an amendment to ban them and I applauded the Government at the time. Both kinds are now on the comeback.

That is what we need to stop people from doing. I cannot recall ever seeing any of us eating sea urchins, sea dumplings and the likes, but we now have a diverse community and it is necessary for us to put laws in place to prevent people from taking those things. It certainly will not affect the Caymanians because we do not eat angel fish. I have never heard of Caymanians eating angel fish, sea eggs, sea dumplings, periwinkles or bleeding teeth. We fish with them.

While this may not prevent foreign nationals on work permits from doing it, they certainly will think twice about going there without a licence because that would be against the Law to take those now as well and it is against the Law to take fish under 4 inches.

The fact is that in the absence of enforcement they are still taking the fish under 8 inches. I see them constantly on the docks in East End, North Side, South Sound, Breakers and Frank Sound and they are fishing and taking the fish less than 8 inches long. Fortunately, some of us have enough civic pride to tell them not to do it, but in the absence of a Police Officer or an enforcement officer, those of us who are civic minded cannot be there all the time. We need more enforcement officers. I certainly cannot say that enforcement officers will be there all the time either, but the fact that we know they are available will serve as a deterrent for people.

Mr. Speaker, I find it somewhat amazing that people will come to a country having left theirs and do not wish to abide by the rules and regulations of the country that they have come to. While I understand that the \$1,000 per month was quite a hefty sum, and in my opinion, discriminating against a particular sector, they, of course, have to abide by the \$400 per year or \$150 per month and I am not going to oppose it.

Personally, I see no need for \$150 per month. If you are a resident, in most cases you are going to have a six months or one-year work permit, and if you are an avid fisherman then you will pay the \$400 to have a licence. However, the problem we have is not that these people are only avid fishermen; the problem is that they use it as a means of getting food. That, in a lot of instances, is the staple food for many of the foreign nationals in this country. Instead of go-

ing to the supermarket, it is easy to buy a thirty-pound test line for \$10/\$12, a few sinkers and hooks and go out and catch our small fish. I totally oppose that.

I implore the Government that when these licences are issued, people are given the necessary laws and regulations to ensure that if the Police catch them with one fish that is 7½ inches they spend a night in jail. Mr. Speaker, a license fee will make it easier to have control over the taking and the destruction of our marine environment. We need to arm enforcement officers and Police with the tools, and I would trust that we will not see so many people fishing off our shores anymore.

Mr. Speaker, when I was growing up you could count the number of people who went fishing along the shore on one hand; we all knew who they were in East End. Now on one dock you can see at least six people. I am sure it will be a little easier for the Police officers and the Marine Enforcement officers to ask if these people have a licence. I support this country applying a licence on fishing, but I reiterate my position: enforcement is the key.

As the Second Elected Member for George Town said, we can support this now. I can give my support to \$400 per year; I could not defend \$1,000 per month. I give my support to this amendment. Thank you.

The Deputy Speaker: Does any other Member wish to speak? Does any other Member wish to speak? If no other Member wishes to speak, does the Leader of Government Business wish to exercise his right of reply?

Hon. W. McKeever Bush: Mr. Speaker, first of all, if I were of the same mind as the Second Elected Member for George Town I would do as he did. However, the truth is I did not find that he said anything except to be his usual self: pompous, insulting and nasty and cannot get over the fact that he is not running the Government from behind the scenes anymore.

I would like to make some remarks, nothing to what they said. As I said, nothing was said on the other side. First of all, there is nothing anti-expatriate in the attempt to do something about the wanton destruction of the marine life. We found out that three nationalities are responsible and when I became determined to do something about it, I was told that I could not name them in legislation and was advised that the way to go was the way that the amendment was formed. Now, I spoke one day, gave notice of the amendments on a Monday, there were two whole days and we did not deal with it until Thursday late afternoon. Members knew about it because they were told . . .

(Inaudible comment)

Hon. W. McKeever Bush: Well, you do not stay in the House long enough, son. You could be correct that

you do not know. If you say you did not know then I have to take you at your word. The advice from the legal draftsman was to go that way. The good would suffer for the bad unless they paid the fee of \$1,000.

Mr. Speaker, the Opposition can say what they like. As one adage says, 'They say, let them say'. The fact is there is a problem. Even if the fee was considered too much I have tried to do something about the problem, and while some may complain I have been receiving as much support also. We have found ways to make it more palatable while still maintaining, I hope, the deterrent because nothing you do you can be completely assured of. Never let it be said that I am not attempting and would not attempt to do something.

The Member seemed to rejoice in the fact that I was, what he calls, '*pilloried by the press*'. That is not new to me, Mr. Speaker. That is not new to this Member. The editors of the *Caymanian Compass* have been trying for the last several years to do all they can to paint anything that I have to do as badly as possible and they fail all the time. Every time they try to get me un-elected, the people of West Bay say, '*Lady, we do not know you, we know him, we elect him*'. So that is good enough for me; but as far as being pilloried by the press, those people have no regard for fairness and I leave it at that.

If I did not understand the importance of what we were doing, I would simply do what was done last year for a whole year: sit down and do nothing about the problems. When they did, they nearly created a world of confusion but for someone else picking up the pieces and running with them. I listen when I think the advice is good, and if there is a mistake then I try to change it. I could have left this alone because there was twice as many in support that called me as those that I have seen in the press, many times over.

So, I am not concerned about what they say or what the editorial will say in the *Caymanian Compass*. I am concerned about doing right. I saw in the editorial of the *Caymanian Compass* where she said that, "Banning expatriates from fishing will not be the solution. Much of the over fishing, the excessive removal of conch, lobster and spawning grouper, for example, seems to fall at the feet of Caymanians". That may be true but there are certain groups here that are creating havoc and the type of destruction going on is what makes it so bad. I am not going to get into this thing about Caymanian or anti-expatriate. I am trying to do what is right and I believe that what is before us will go a long way to make it better. What I tried to do two weeks ago was to do something about the problem.

Mr. Speaker, as far as the Opposition is concerned, as one adage goes, 'They say, let them say'.

The Deputy Speaker: The question is that a Bill shortly entitled The Marine Conservation (Amendment) (No. 2) Bill, 2002 be given a second reading. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Marine Conservation (Amendment) (No. 2) Bill, 2002 given a Second Reading.

The Port Authority (Amendment) Bill, 2002

Withdrawn—Standing Order 58

The Deputy Speaker: The Honourable Leader of Government Business.

Hon. W. McKeever Bush: Mr. Speaker, I want to move under Standing Order 58 that the Bill be withdrawn.

The Deputy Speaker: The question is that the Port Authority amendment Bill 2002 under Standing Order 58 be withdrawn. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Port Authority (Amendment) Bill, 2002 withdrawn.

The Supplementary Appropriation (1993) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move the Second Reading of The Supplementary Appropriation (1993) Bill, 2002. I should point out there is general agreement that because of the relationship of these Bills and what they represent, they would be taken en block from 1993 through 2000.

The Supplementary Appropriation (1994) Bill, 2002
The Supplementary Appropriation (1995) Bill, 2002
The Supplementary Appropriation (1996) Bill, 2002
The Supplementary Appropriation (1997) Bill, 2002
The Supplementary Appropriation (1998) Bill, 2002
The Supplementary Appropriation (1999) Bill, 2002
The Supplementary Appropriation (2000) Bill, 2002

The Deputy Speaker: The Bills have been duly moved. Does the Mover wish to speak thereto?

Hon. George A. McCarthy: Mr. Speaker, in accordance with the Public Finance and Audit Law, section 9(i), I bring to this Honourable House Supplementary Appropriation Bills for the period 1993 through 2000.

Firstly, I would like to apologise to this Honourable House for the delay in bringing these Bills. This has been an oversight on the part of the Portfolio of

Finance and Economics. The purpose of the Supplementary Appropriation Bill is to confirm the expenditure already approved by Finance Committee and these are contained in Schedule 1 of each of the Bill. Additionally, the purpose is to authorise expenditures which were not in the original Appropriation Laws and these are contained in Schedule 2 of the various Bills.

The Supplementary Bills are not concerned with heads where the actual expenditure is less than the original Appropriation, and it does not cover revenue or statutory expenditure. This means that where the amounts are shown in the Supplementary Appropriation Bills will not represent over expenditure by the governments during those years because where the expenditure against a head is under what was approved in the Legislative Assembly, that is not netted against the over expenditure that takes place against the various heads. These are items for which approval, in many instances, have been allowed by Finance Committee.

Mr. Speaker, for each of the years that these Bills relate to, the annual amounts have already been audited by the Auditor General. The preparation of these Bills was carried out in consultation accordingly with the Auditor General's office. The presentation of these Bills satisfies the requirement of the Public Finance and Audit Law. The requirement under the new Law, The Public Management and Finance Law, 2001, is that Supplementary Appropriation Law will be brought at the same time as the supplementary plan and estimates brought to this Honourable House for approval. So, it is unlikely there will be any delays.

Mr. Speaker, the Bills are straightforward and, accordingly, I commend the Bills to Honourable Members.

The Deputy Speaker: Does any other Member wish to speak? If no other Member wishes to speak, does the Honourable Third Official Member wish to exercise his right of reply?

Hon. George A. McCarthy: To say thanks to Honourable Members for their support, Mr. Speaker.

(Pause)

The Deputy Speaker: The question is that Bills shortly entitled The Supplementary Appropriation Bills 1993 through 2002 be given a second reading. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed. The Supplementary Appropriation (1993) Bill 2002; The Supplementary Appropriation (1994) Bill 2002; The Supplementary Appropriation (1995) Bill 2002; The Supplementary Appropriation (1996) Bill 2002; The Supplementary Appropriation (1997)

Bill 2002; The Supplementary Appropriation (1998) Bill 2002; The Supplementary Appropriation (1999) Bill 2002; The Supplementary Appropriation (2000) Bill 2002 given a Second Reading.

The Deputy Speaker: The House will now go into Committee to consider the Bills.

House in Committee at 7.21 pm

COMMITTEE ON BILLS

The Chairman: Please be seated. Proceedings are resumed. The House is now in Committee.

With the leave of the House may I assume that as usual we should authorise the Honourable Second Official Member to correct minor errors and suchlike in these Bills. Would the Clerk please state the Bill and read the clauses?

The Marine Conservation (Amendment) (No.2) Bill, 2002

Clauses 1 to 4

The Clerk:

Clause 1	Short title
Clause 2	Amendment of section 2 of The Marine Conservation Law (2002 Revision) – definitions
Clause 3	Amendment of section 18A – licence to fish
Clause 4	Amendment of Schedule

The Chairman: The question is that clauses 1 through 4 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 4 passed.

The Clerk: A Bill for a Law to Amend the Marine Conservation Law (2002 Revision) and for Incidental and Connected Purposes

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Customs (Amendment) Bill, 2002

Clauses 1 and 2

The Clerk:

Clause 1 Short title
 Clause 2 Amendment of section 10 of the Customs Law (1998 Revision) – prohibited and restricted goods.

The Chairman: The question is that clauses 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

The Clerk: A Bill for a Law to Amend the Customs Law 1998 Revision and for Incidental and Connected Purposes

The Deputy Speaker: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Cayman Islands Registered Stock Bill, 2002

Clauses 1 to 10

The Clerk:

Clause 1 Short title.
 Clause 2 Interpretation.
 Clause 3 Application.
 Clause 4 Issue of registered stock for the purpose of raising authorised loans.
 Clause 5 Stock to be charged upon the revenue
 Clause 6 Financial Secretary to give directions as to name of stock and other matters.
 Clause 7 Accountant General to make necessary arrangements.
 Clause 8 The Registrar.
 Clause 9 Delegation by Registrar.
 Clause 10 Registrar of stock.

The Chairman: The question is that clauses 1 through 10 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 10 passed.

Clauses 11 through 25

The Clerk:

Clause 11 Matters to be registered.
 Clause 12 Stock holder.
 Clause 13 Registration of ordinary stock holders.
 Clause 14 Stock certificate.
 Clause 15 Transfer of registered stock.
 Clause 16 Registration of transfer stock.
 Clause 17 Closing of register.
 Clause 18 Register to be conclusive evidence of facts entered therein.
 Clause 19 Liability of government in respect of issue of stock.
 Clause 20 Appropriation out of revenue for payment of interest.
 Clause 21 Payment of interest.
 Clause 22 No interest payable on stock after date of redemption.
 Clause 23 Payments.
 Clause 24 Establishment of sinking fund.
 Clause 25 Payment into sinking fund.

The Chairman: The question is that clauses 11 through 25 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 11 through 25 passed

Clauses 26 to 40

The Clerk:

Clause 26 Trustees for sinking fund.
 Clause 27 Trustees to hold sinking funds and other moneys in trust for redemption.
 Clause 28 Investment of sinking fund.
 Clause 29 Cessation of contributions to sinking fund.
 Clause 30 Redemption of stock.
 Clause 31 Power of Governor in Council to authorise conversion of loans generally.
 Clause 32 Exchange of debentures for stock.
 Clause 33 Cancellation of converted debentures.
 Clause 34 Issue of duplicates.
 Clause 35 Consolidation and subdivision of stock.
 Clause 36 Indemnity bonds.
 Clause 37 Summary of procedure special cases.
 Clause 38 Signature of person authorised to sign stock certificate may be printed.
 Clause 39 Indemnity bonds.
 Clause 40 Documents to be in prescribed form.

The Chairman: The question is that clauses 26 through 40 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 26 through 40 passed.

Clauses 41 to 47

The Clerk:

Clause 41	Payments of expenses incurred under this Law.
Clause 42	Payment of fees.
Clause 43	Payment of unclaimed moneys into revenue.
Clause 44	Inspections of registers and documents.
Clause 45	Regulations.
Clause 46	Immunity.
Clause 47	Saving.

The Chairman: The question is that clauses 41 through 47 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 41 through 47 passed.

The Clerk: A Bill for a Law to Provide for the Creation and Issue of Registered Stock for the Purpose of Enabling the Government to Raise Funds for the Islands; and for Incidental and Connected Purposes.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Monetary Authority Amendment) Bill, 2002

Clauses 1 to 10

The Clerk:

Clause 1	Short title and commencement.
Clause 2	Amendment of section 2 of the Monetary Authority Law (2002 Revision) – definitions.
Clause 3	Insertion of sections 2A and 2B – determination of fitness and propriety; private sector consultation.
Clause 4	Repeal of section 4 and substitution – principal functions of Authority.
Clause 5	Amendment of section 8 – allocation of profits.
Clause 6	Amendment of section 9 – board of directors.
Clause 7	Amendment of section 10 – appointment of directors.
Clause 8	Amendment of section 11 – appointment of managing director.
Clause 9	Amendment of section 12 – disqualification of directors.
Clause 10	Amendment of section 13 – meetings and decisions of the board.

The Chairman: The question is that clauses 1 through 10 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 10 passed.

Clauses 11 to 19

The Clerk:

Clause 11	Insertion of sections 13A and 13B – committees.
Clause 12	Amendment of section 14 – pecuniary interest of director or committee member.
Clause 13	Amendment of section 16 removal or exclusion of disability, etc.
Clause 14	Amendment of section 7 power to employ staff, etc
Clause 15	Amendment of section 28 Currency Reserve.
Clause 16	Amendment of section 29 relations with Government.
Clause 17	Amendment of section 30 relations with banks and other financial institutions.
Clause 18	Amendment of section 31 - assistance in obtaining information.
Clause 19	Amendment of section 32 -general powers.

The Chairman: The question is that clauses 11 through 19 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 11 through 19 passed.

The Chairman: We have been given notice of an amendment.

Clause 20

The Clerk: Clause 20 Repeal and substitution of Part VI – accounts and statements.

The Chairman: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Chairman, in accordance with the provisions of Standing Orders 52 (1) and (2) I give notice to move the following amendment to the Monetary Authority (Amendment) Bill 2002, that Clause 20 be amended by renumbering section 37 as section 37A and inserting the following section as section 37 –

“Independence review of Authority’s performance 37. (1)The Governor may at any time appoint an independent person to:

(a) review the Authority’s performance

of any of its functions, including its observance of its general duties under section 4 and the regulatory handbook established under section 41A, or.

(b) to enquire into any action or inaction of the Authority which appears to raise questions of importance to the public interest, and such appointment may include directions concerning the scope and conduct of the review or enquiry, and the making of interim reports.

(2) The person appointed under subsection (1) ("the appointed person") may, subject to any directions given in his appointment:

(a) obtain such information from such persons and in such manner as he thinks fit;

(b) review or enquire into such matters as he thinks fit; and

(c) determine the procedure to be followed in connection with the review or enquiry .

(3) The appointed person may require any person who, in his opinion, is able to provide any information, or produce any document, which is relevant to the review or enquiry to provide any such information or produce any such document, and for this purpose the appointed person shall have the same powers as the Grand Court in respect of the attendance and examination of witnesses (including the examination of witnesses abroad) and in respect of the production of documents.

(4) Where a person fails to comply with a requirement imposed on him under subsection (3) the appointed person may refer the matter to the Grand Court which may enquire into the matter and, if satisfied after hearing:

(a) any witnesses who may be produced against or on behalf of the person who fails to comply; and

(b) any statement made by or on behalf of such person;

that such person would have been in contempt of court if the review or enquiry had been proceedings before the court, such person may be dealt with by the court in the same manner as if he were in contempt of court.

(5) The appointed person shall upon the completion of the review or enquiry make a written report to the Financial Secretary setting out the result of the review or enquiry and making such recommendations

(if any) as he considers appropriate.

(6) The report made under sub-section (5) shall be laid before the Legislative Assembly, subject to removal of any material:

(a) which the Financial Secretary considers to relate to the affairs of a particular person whose interests would be seriously and unfairly prejudiced by publication; or

(b) whose disclosure would in the Financial Secretary's opinion be incompatible with the public interest or an international obligation of the Islands.

(7) Expenses reasonably incurred in conducting a review or enquiry shall be paid out of the revenue of the Islands."

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto? If no Member wishes to speak the question is that the amendment stand part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment passed.

The Chairman: The question now is that clause 20 as amended stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 20 as amended passed.

Clauses 21 to 28

The Clerk:

Clause 21	Amendment of section 40 – regulations.
Clause 22	Repeal and substitution of section 41 – rules.
Clause 23	Insertion of section 41A – regulatory handbook.
Clause 24	Amendment of section 43 – confidentiality.
Clause 25	Insertion of section 44 – Memoranda of Understanding.
Clause 26	Insertion of third schedule – Private Sector Associations.
Clause 27	Validation.
Clause 28	Savings and transitional provisions.

The Chairman: The question is that clauses 21 through 28 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 21 through 28 passed.

The Clerk: A Bill for a Law to amend the Monetary Authority Law 2002 Revision to make provision for the Operational Independence of the Cayman Islands Monetary Authority to Empower the Monetary Authority to further Regulate Financial Services Business operating in or from the Cayman Islands and to make Provision for Incidental and Connected Purposes.

The Chairman: The question is that the Title does stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Banks and Trust Companies (Amendment) Bill 2002

Clauses 1 to 17

The Clerk:

Clause 1	Short title and commencement.
Clause 2	Amendment of section 2 of the Banks and Trust Companies Law (2001 Revision) – definitions.
Clause 3	Amendment of section 5 – licence required to carry on banking or trust business.
Clause 4	Amendment of section 6 – application to be made to Authority.
Clause 5	Amendment of section 7 – shares not to be issued or transferred without approval of Authority.
Clause 6	Amendment of section 8 – net worth requirements.
Clause 7	Amendment of section 9 – use of word “bank”, etc.
Clause 8	Amendment of section 10 – accounts.
Clause 9	Amendment of section 12 – number and approval of directors.
Clause 10	Amendment of section 13 – powers and duties of Authority.
Clause 11	Amendment of section 14 – additional powers of Authority.
Clause 12	Amendment of section 15 – Authority may apply to Court.
Clause 13	Amendment of section 16 – surrender of licence.

Clause 14	Amendment of section 19 – false or misleading misinformation.
Clause 15	Amendment of section 21 – appeals.
Clause 16	Amendment of section 22 – immunity.
Clause 17	Savings provisions.

The Chairman: The question is that . . .
The Honourable Third Official Member?

Hon. George A. McCarthy: Mr. Chairman, thank you. The original amendment that was circulated that has now been incorporated in the amending Bill has just been reviewed, so there is no need to address this amendment as it related to the original Bill that was circulated.

The Chairman: Thank you, Honourable Member, for that explanation. The question is that clauses 1 through 17 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 17 passed.

The Clerk: A Bill for a Law to amend the Banks and Trust Companies Law 2001 Revision to transfer from the Governor in Council to the Cayman Islands Monetary Authority, licensing powers in relation to banks and trust companies, to increase the regulatory powers of the Monetary Authority in relation to banks and trust companies, and to make Provisions for related matters.

The Chairman: The question is that the title do stand part of the Bill. All those in favour please say Aye. Those against, No.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Mutual Funds (Amendment) Bill 2002

Clauses 1 to 14

The Clerk:

Clause 1	Short title and commencement.
Clause 2	Amendment of section 9 of the Mutual Funds Law (2001 Revision) – regulated mutual fund to pay annual fee.
Clause 3	Amendment of section 10 – person to be authorised to administer mutual funds.
Clause 4	Amendment of section 12 – Mutual Fund Administrators Licences.
Clause 5	Amendment of section 13 – restriction on issue, etc., or transfer of shares in licensed mutual fund administrator.

Clause 6	Amendment of section 14 – annual fee for providing or acting as principal office of mutual fund.
Clause 7	Amendment of section 18 – name of licensed mutual fund administrators restricted.
Clause 8.	Amendment of heading to Part V – Duties And Powers Of The Authority.
Clause 9	Amendment of section 29 – Authority to administer Law.
Clause 10	Amendment of section 30 – powers of Authority in respect of regulated mutual funds.
Clause 11	Amendment of section 31 – powers of Authority in respect of licensed mutual fund Administrators.
Clause 12	Insertion of section 34A – appeals.
Clause 13	Amendment of section 35 – indemnity.
Clause 14	Savings provisions.

The Chairman: The question is that clauses 1 through 14 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 14 passed.

The Clerk: A Bill for a Law to amend the Mutual Funds Law 2001 Revision to transfer from the Governor in Council to the Cayman Islands Monetary Authority Licensing powers in relation to Mutual Fund administrators, to increase the regulatory powers of the Monetary Authority in relation to Mutual Fund administrators and to make provision for related matters.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Insurance (Amendment) Bill 2002

Clauses 1 to 10

The Clerk:

Clause 1	Short title and commencement.
Clause 2	Amendment of section 2 of the Insurance Law (2001 Revision) – definitions.
Clause 3	Amendment of section 4 – applications for licences.
Clause 4	Amendment of section 5 – the Authority.
Clause 5	Amendment of section 6 – use of the word "insurance", etc..
Clause 6	Amendment of section 11 – powers of Authority.

Clause 7	Amendment of section 11A – surrender of licence.
Clause 8	Amendment of section 12 – preservation of assets, etc.
Clause 9	Amendment of section 13 – appeals.
Clause 10	Savings provisions.

The Chairman: The question is that clauses 1 through 10 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 10 passed.

The Clerk: A Bill for a Law to amend the Insurance Law 2001 Revision to transfer from the Government Council to the Cayman Islands Monetary Authority Licensing powers in relation to persons carrying on Insurance Business, to increase regulatory powers of the Monetary Authority in relation to persons carrying on an Insurance Business and to make provisions for related matters.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Money Services (Amendment) Bill 2002

Clauses 1 and 2

The Clerk:

Clause 1	Short title and commencement
Clause 2	Amendment of section 5 of the Money Services Law 2000 – application for and grant of licences.

The Chairman: The question is that clauses 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

The Clerk: A Bill for a Law to amend the Money Services Law 2000 to make provision for the Crown to sue for unpaid annual fees and to make provision for related matters

The Chairman: The question is that the title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Companies Management (Amendment) Bill 2002

Clauses 1 to 10

The Clerk:

Clause 1	Short title and commencement.
Clause 2	Amendment of section 5 of The Companies Management Law (2001 Revision) – application to be made to Authority.
Clause 3	Amendment of section 6 – fees and returns.
Clause 4	Amendment of section 9 – shares not to be issued or transferred without approval of the Authority.
Clause 5	Amendment of section 11 – use of words connoting business of company management.
Clause 6	Amendment of section 16 – powers and duties of the Authority.
Clause 7	Amendment of section 18 – additional powers of Authority.
Clause 8	Amendment of section 20 – winding up.
Clause 9	Amendment of section 21 – appeals.
Clause 10	Savings provisions.

The Chairman: The question is that clauses 1 through 10 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 10 passed.

The Clerk: A Bill for a Law to amend the Companies Management Law 2001 Revision to transfer from the Governor in Council to the Cayman Islands Monetary Authority licensing powers in relation to company managers to increase the regulatory powers of the Monetary Authority in relation to company managers and to make provisions for related matters.

The Chairman: The question is that the Title does stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes

The Chairman: The Ayes have it.

Agreed: Title passed.

The Supplementary Appropriation (1993) Bill 2002

Clauses 1 to 4

The Clerk:

Clause 1	Short title.
Clause 2	Expenditure confirmed Schedule 1.
Clause 3	Re-allocation confirmed Schedule 2.
Clause 4	Further expenditure confirmed Schedule 3.

The Chairman: The question is that clauses 1 through 4 do stand part of the Bill. All those in favour please say Aye. Those against, No.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 4 passed.

Schedules 1, 2 and 3

The Clerk: Schedules 1, 2 and 3

The Chairman: The question is that Schedules 1, 2 and 3 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Schedules 1, 2 and 3 passed.

The Clerk: A Bill for a Law to Allow and Confirm certain Expenditure during the Financial Year 1993.

The Chairman: The question is that the title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Supplementary Appropriation (1994) Bill 2002

Clauses 1 to 3

The Clerk:

Clause 1	Short title.
Clause 2	Expenditure confirmed Schedule 1.
Clause 3	Further expenditure confirmed Schedule 2.

The Chairman: The question is that clauses 1 through 3 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

Schedules 1 and 2

The Clerk: Schedules 1 and 2

The Chairman: The question is that Schedules 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Schedules 1 and 2 passed.

The Clerk: A Bill for Law to Allow and Confirm certain expenditure during the financial year 1994.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Supplementary Appropriation (1995) Bill 2002

Clauses 1, 2 and 3

The Clerk:

Clause 1	Short title.
Clause 2	Expenditure confirmed Schedule 1.
Clause 3	Further expenditure confirmed Schedule 2.

The Chairman: The question is that clauses 1, 2 and 3 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

Schedules 1 and 2

The Clerk: Schedules 1 and 2

The Chairman: The question is that Schedules 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Schedules 1 and 2 passed.

The Clerk: A Bill for a Law to Allow and Confirm certain Expenditure during the Financial Year 1995.

The Chairman: The question is that the title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Supplementary Appropriation (1996) Bill 2002

Clauses 1, 2 and 3

The Clerk:

Clause 1	Short title.
Clause 2	Expenditure confirmed Schedule 1.
Clause 3	Further expenditure confirmed Schedule 2.

The Chairman: The question is that clauses 1, 2 and 3 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

Schedules 1 and 2

The Clerk: Schedules 1 and 2

The Chairman: The question is that Schedules 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Schedules 1 and 2 passed.

The Clerk: A Bill for a Law to Allow and Confirm Certain Expenditure during the financial year 1996.

The Chairman: The question is that the title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Supplementary Appropriation (1997) Bill 2002

Clauses 1, 2 and 3

The Clerk:

Clause 1 Short title.
Clause 2 Expenditure confirmed Schedule 1.
Clause 3 Further expenditure confirmed Schedule 2.

The Chairman: The question is that clauses 1, 2 and 3 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

Schedules 1 and 2

The Clerk:

Schedules 1 and 2.

The Chairman: The question is that Schedules 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Schedules 1 and 2 passed.

The Clerk: A Bill for a Law to Allow and Confirm certain Expenditure during the financial year 1997.

The Chairman: The question is that the title do stand part of the Bill. All those in favour please say Aye. Those against, No.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Supplementary Appropriation (1998) Bill 2002

Clauses 1, 2 and 3

The Clerk:

Clause 1 Short title.
Clause 2 Expenditure confirmed Schedule 1.
Clause 3 Further expenditure confirmed Schedule 2.

The Chairman: The question is that clauses 1, 2 and 3 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

Schedules 1 and 2

The Clerk:

Schedules 1 and 2

The Chairman: The question is that Schedules 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Schedules 1 and 2 passed.

The Clerk: A Bill for a Law to Allow and Confirm certain expenditure during the financial year 1998.

The Chairman: The question is that the title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Supplementary Appropriation (1999) Bill 2002

Clauses 1 and 2

The Clerk:

Clause 1 Short title.
Clause 2 Expenditure confirmed.

The Chairman: The question is that clause 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

Schedules 1 and 2

The Clerk:

Schedules 1 and 2

The Chairman: The question is that Schedules 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Schedules 1 and 2 passed.

The Clerk: A Bill for a Law to Allow and Confirm certain Expenditure during the Year 1999.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Supplementary Appropriation (2000) Bill 2002

Clauses 1 and 2

The Clerk:

Clause 1 Short title.
Clause 2 Expenditure confirmed.

The Chairman: The question is that clauses 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

Schedules 1 and 2

The Clerk: Schedules 1 and 2

The Chairman: The question is that Schedules 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Schedules 1 and 2 passed.

The Clerk: A Bill for a Law to Allow and Confirm certain Expenditure during the Year 2000.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: That concludes proceedings in Committee.

The question is that the Committee do report to the House. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Committee to report on Bills to the House.

House Resumed—7.52 pm

The Deputy Speaker: Please be seated. Proceedings of the House are resumed.

Reports. The Honourable Leader of Government Business.

REPORTS ON BILLS

The Marine Conservation (Amendment) (No.2) Bill, 2002

Hon. W. McKeeva Bush: Mr. Speaker, I have to report that a Bill entitled The Marine Conservation (Amendment) (No.2) Bill, 2002 was taken to Committee stage and passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for the Third Reading.

The Customs (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I am to report that a Bill entitled, The Customs (Amendment) Bill, 2002 was considered by a committee of the whole House and passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for the Third Reading.

The Cayman Islands Registered Stock Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I am to report that a Bill entitled, The Cayman Islands Registered Stock Bill, 2002 was considered by a committee of the whole House and passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for the Third Reading.

The Monetary Authority Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I am to report that a Bill entitled, The Monetary Authority (Amendment) Bill, 2002 was considered by a committee of the whole House and passed with one amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for the Third Reading.

The Banks and Trust Companies (Amendment) Bill 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that a Bill entitled, The Banks and Trust Companies (Amendment) Bill 2002 was considered by a committee of the whole House and passed with amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for the Third Reading.

The Mutual Funds (Amendment) Bill 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I am to report that a Bill entitled, The Mutual Funds (Amendment) Bill 2002 was considered by a committee of the whole House and was passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for the Third Reading.

The Insurance (Amendment) Bill 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I am to report that a Bill entitled, The Insurance (Amendment) Bill 2002 was considered by a committee of the whole House and passed without amendment.

The Deputy Speaker: The Bill was duly reported and is set down for the Third Reading.

The Money Services (Amendment) Bill 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I am to report that a Bill entitled, The Money Services (Amendment) Bill 2002 was considered by a committee of the whole House and passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for the Third Reading.

The Companies Management (Amendment) Bill 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I am to report that a Bill entitled, The Companies Management (Amendment) Bill 2002 was considered by a committee of the whole House and passed without amendment.

The Deputy Speaker: The Bill has been duly reported and is set down for the Third Reading.

Madam Clerk, are we going to do the Supplementary Appropriations en bloc?

The Supplementary Appropriation (1993) Bill 2002**The Supplementary Appropriation (1994) Bill 2002****The Supplementary Appropriation (1995) Bill 2002****The Supplementary Appropriation (1996) Bill 2002****The Supplementary Appropriation (1997) Bill 2002****The Supplementary Appropriation (1998) Bill 2002****The Supplementary Appropriation (1999) Bill 2002****The Supplementary Appropriation (2000) Bill 2002**

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I am to report that Supplementary Appropriation Bills: 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000 (Bills 2002) were considered by the Committee of the whole House and passed without amendments.

The Deputy Speaker: The Bills have been duly reported to the Honourable House and set down for Third Readings.

Third Readings.

Suspension of Standing Order 47

The Deputy Speaker: The Honourable Leader of Government Business for the suspension of Standing Order 47.

Hon. W. McKeever Bush: Mr. Speaker, I move for the suspension of Standing Order 47 to allow for Third Readings.

The Deputy Speaker: The question is that Standing Order 47 be suspended. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: Standing Order 47 suspended to allow the Bills to be read a third time.

THIRD READINGS

The Marine Conservation (Amendment) (No.2) Bill, 2002

The Deputy Speaker: The Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Mr. Speaker, I move that The Marine Conservation (Amendment) (No.2) Bill, 2002 be given a third reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled, The Marine Conservation (Amendment) (No.2) Bill, 2002 be given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Marine Conservation (Amendment) (No. 2) Bill 2002 given a third reading and passed.

The Customs (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that The Customs (Amendment) Bill, 2002 be given a third reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled, The Customs (Amendment) Bill, 2002 be given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Customs (Amendment) Bill 2002 given a third reading and passed.

The Cayman Islands Registered Stock Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that The Cayman Islands Registered Stock Bill, 2002 be given a third reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled, The Cayman Islands Registered Stock Bill, 2002 be given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Cayman Islands Registered Stock Bill 2002 given a third reading and passed.

The Monetary Authority (Amendment) Bill, 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that the Monetary Authority (Amendment) Bill, 2002 be given a third reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled, The Monetary Authority (Amendment) Bill, 2002 be given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Monetary Authority (Amendment) Bill 2002 has been read a third reading and passed.

The Banks and Trust Companies (Amendment) Bill 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that a Bill entitled, The Banks and Trust Companies (Amendment) Bill 2002 be given a third reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled, The Banks and Trust Companies (Amendment) Bill 2002 be given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Banks and Trust Companies (Amendment) Bill 2002 given a third reading and passed.

The Mutual Funds (Amendment) Bill 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that The Mutual Funds (Amendment) Bill 2002 be given a third reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled, The Mutual Funds (Amendment) Bill 2002 be given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Mutual Funds (Amendment) Bill 2002 given a third reading and passed.

The Insurance (Amendment) Bill 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that a Bill entitled, The Insurance (Amendment) Bill 2002 be given a third reading and passed.

The Deputy Speaker: The question is that a Bill entitled, The Insurance (Amendment) Bill 2002 be given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes

The Deputy Speaker: The Ayes have it.

Agreed: The Insurance (Amendment) Bill 2002 given a third reading and passed.

The Money Services (Amendment) Bill 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that a Bill entitled, The Money Services (Amendment) Bill 2002 be given a third reading and passed.

The Deputy Speaker: The question is that a Bill shortly entitled, The Money Services (Amendment) Bill 2002 be given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Money Services (Amendment) Bill 2002 has been given a third reading and passed.

The Companies Management (Amendment) Bill 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that a Bill entitled, The Companies Management (Amendment) Bill 2002 given a third reading and passed.

The Deputy Speaker: The question is that a Bill entitled, The Companies Management (Amendment) Bill 2002 given a third reading and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Companies Management (Amendment) Bill 2002 has been read a third reading and passed.

The Supplementary Appropriation (1993) Bill 2002
The Supplementary Appropriation (1994) Bill 2002
The Supplementary Appropriation (1995) Bill 2002
The Supplementary Appropriation (1996) Bill 2002
The Supplementary Appropriation (1997) Bill 2002
The Supplementary Appropriation (1998) Bill 2002
The Supplementary Appropriation (1999) Bill 2002
The Supplementary Appropriation (2000) Bill 2002

The Deputy Speaker: The Honourable Third Official Member.

Hon. George A. McCarthy: Mr. Speaker, I beg to move that Bills entitled, The Supplementary Appropriation, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000 (Bills 2002) be given third readings and passed.

The Deputy Speaker: The question is that Bills shortly entitled, The Supplementary Appropriation, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000 (Bills 2002) be given third readings and passed. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

Agreed: The Supplementary Appropriation (1993) Bill 2002; The Supplementary Appropriation (1994)

Bill 2002;The Supplementary Appropriation (1995)
Bill 2002;The Supplementary Appropriation (1996)
Bill 2002;The Supplementary Appropriation (1997)
Bill 2002;The Supplementary Appropriation (1998)
Bill 2002;The Supplementary Appropriation (1999)
Bill 2002;The Supplementary Appropriation (2000)
Bill 2002;Given a Third Readings and passed.

The Deputy Speaker: Since we have completed all the business on the Order Paper could I have a motion for the adjournment?

ADJOURNMENT

Hon. W. McKeeva Bush: Mr. Speaker, before we move the adjournment let me thank one and all for staying to complete business. We did say the Christmas compliments earlier but I do take this opportunity on behalf of all of Government to say thanks to the staff. We hope that you have a good Christmas and a healthy and prosperous New Year. Of course the same goes to all Members again.

Mr. Speaker, from where I stand there is work to be done here in this building to offices and other facilities and to staffing resources. I hope that the Speaker, the Clerk and the House Committee will get together early January to look at how systems needing change can be changed so that when business is brought here the few staff can better cope with it. Business is not going to get less but there must be a way found that efficiency can be improved. So, staff needs must be met and facilities must be improved. We cannot continue the way we have been going so we urge all of them to get together early in the New Year to look at it and we will have to deal with whatever expenditure it takes. Certainly some changes need to be made.

Mr. Speaker, it has been a long meeting and we have come to the end of business. However, out of the abundance of caution I will still move the adjournment of this Honourable House for a date to be fixed.

The Deputy Speaker: The question is that this House do now adjourn until a date to be fixed. All those in favour please say Aye. Those against, No.

Ayes.

The Deputy Speaker: The Ayes have it.

At 8.06 pm the House stood adjourned until a date to be fixed.

OFFICIAL HANSARD REPORT
MONDAY
10 FEBRUARY 2003
10.25 AM
First Sitting

The Speaker: I will ask the Honourable Third Official Member to grace us with Prayers.

PRAYERS

Hon. George A. McCarthy: *Sovereign Eternal God and Father, in the name of Christ Jesus who reigns with You in union with your Holy Spirit, we thank You, Sovereign Father, that You are the Shepherd of the people of the Cayman Islands. You provide for our needs; You make us to lie down in green pastures; You lead us beside the still waters; You restore our souls; You lead us in the paths of righteousness for your Holy Name's sake. Even though we walk through the valley of the shadow of death we shall fear no evil for, Jehovah God, You are with us; your rod and your staff they comfort us. You prepare a table before us in the presence of our enemies; You anoint our heads with oil, our cups run over. Surely your goodness and your mercies shall follow us all the days of our lives and we will dwell in your House forever, Oh Lord.*

Eternal God and Father, we thank You for these beautiful Islands that You have given us that we call home. Father God, we thank You for the democratic spirit that prevails in this Country. Father God, we thank You that we can come to your throne this day asking for your mercies and for your guidance and for your wisdom. Father I ask that such be given to the leaders of our Country. We pray for your mercies to be upon our Governor, upon our Speaker, the Ministers of Executive Council, the members of Executive Council, the Members of the Legislative Assembly, the entire Cayman Islands community. We also pray your blessing, Sovereign Father upon Her Majesty Queen Elizabeth, II and her family. Father God Almighty, we submit to You the issues that are to be addressed this day in the Legislative Assembly, and we pray that the great wisdom which comes from You will guide our minds in all that we say and do. Father God, we also ask your blessings on our Chief Justice and all of the personnel within our Court system. God Almighty, we give You thanks and we lift up to You the inhabitants of these Islands and pray that You will continue to pour out your blessings upon us. Help us to have a heart of gratitude and to be thankful to You always, for your mercies. We give You thanks in the name of Christ Jesus. Amen.

The Speaker: Please be seated.

Proceedings resumed at 10.29 am

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

The Speaker: I have not received any apologies for the absence of any Member for this Session this morning.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

OATH OF ALLEGIANCE

(Mr. Samuel Bulgin)

The Speaker: I now call on the Honourable Temporary Second Official Member to come to the Clerk's desk. Please stand.

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

The Speaker: On behalf of this Honourable House, I welcome the Honourable Temporary Second Official Member and I invite you to now take your seat.
Please be seated.

**STATEMENTS BY MEMBERS
OF THE GOVERNMENT**

Developments in the Context of the OECD

The Speaker: I now recognise the Honourable Leader of Government Business.

Hon. W. McKeever Bush: Thank you.

Madam Speaker. The various international initiatives, which have implications for the Cayman Islands continue to exert their pressures but at least to some extent the Cayman Islands is able to put forward our legitimate concerns to exert pressure as well. It will be recalled that in December I provided, on behalf of the Government, an update for you, Madam Speaker, and Honourable Members on the subject of the Organization for Economic Co-operation and De-

velopment (OECD) Harmful Tax Competition Initiative. I would like to provide further information today.

In December I pointed out that the European Union was negotiating a position on the European Savings Directive. Switzerland, Liechtenstein, Andorra and Monaco, together with several European Union Member States which have banking secrecy (including Austria, Belgium and Luxembourg) are being offered the prospect of not having to comply with the OECD's Harmful Tax Competition project. This offer extends to at least five years after the Caribbean Overseas Territories are expected to comply, as an inducement to encourage those European countries to go along with a modified form of the European Union Savings Directive.

Madam Speaker, when we were made aware of what was proposed by the European Union in this regard, I wrote to the OECD and to the non-OECD countries involved. I pointed out that this European Union proposal is completely contrary to any reasonable concept of fairness and commitments made by the OECD itself. I am pleased to say that at least in this regard, the OECD has recognised that the European Union proposal would undo the progress which has been made in establishing a level playing field. In response to the intervention by the Cayman Islands and a number of like-minded jurisdictions, it has agreed to call a meeting of the OECD and non-OECD countries, most likely in April, to address this matter. Madam Speaker, it is a pity that the European Union ignores the harm it is advocating to others with the proposed taxation of savings income directive. Perhaps at some point the European Union will advance to the stage arrived at by the OECD in which it is willing to sit down with non-members to discuss these matters which are of international concern.

Thank you very much, Madam Speaker.

The Speaker: Thank you. *(Pause)*

GOVERNMENT BUSINESS

The Speaker: Before calling on the Leader, I take this opportunity to remind Members to refresh their memories of Standing Orders dealing with the rules of debate, being Standing Orders 32 through 39, in particular Standing Orders 35(7) which reads as follows, **"The conduct of Her Majesty, members of the Royal Family, the Governor, the Presiding Officer, Members, Judges and other persons engaged in the administration of justice or of Officers of the Crown may not be raised or impugned except upon a substantive motion; and in any amendment, question to a Member of the Government or debate on a motion dealing with any other subject any reference to the conduct of any such person is out of order."**

GOVERNMENT MOTION NO. 11/02

Censure Motion

The Speaker: I now recognise the Honourable Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, I beg to move Government Motion No. 11.

"BE IT RESOLVED THAT this Honourable House expresses its loss of confidence in Mr. David Ballantyne, Government's Principal Legal Advisor/Attorney-General/Second Official Member of the Legislative Assembly and of the Executive Council."

The Speaker: The Motion has been duly moved and is opened for debate. Does the Honourable Leader wish to speak thereto?

Hon. W. McKeeva Bush: Thank you very much, Madam Speaker.

The Speaker: Please proceed.

Hon. W. McKeeva Bush: Madam Speaker, we are before this Honourable House to move and debate a motion of no confidence in the Second Official Member of the Executive Council/the Attorney-General/Government's Legal advisor, Mr. David Ballantyne.

It is indeed a very sad day in the history of these Islands, a day which neither elected nor appointed Members of this Honourable House ever believed, or in their worst nightmares ever dreamt, would have arisen. Elected Members have a responsibility to the people, and unfortunately in carrying out that responsibility and duty, unpleasant matters have to be debated and voted upon in this Honourable House. The Government, in carrying out its duties and responsibilities to our people, accepts this and will not shy away from it when the people's interests and the future of these Islands are at stake.

Pursuant to the Constitution of the Cayman Islands, the Attorney General is the principal legal advisor to the Government. His appointment vests with the Governor acting in his discretion. No locally elected Member or body has to be consulted prior to any appointment of the Attorney General being made. In practice, the Governor of the representative of the Foreign and Commonwealth Office appoints the Attorney General of the Cayman Islands. As such, he is a public officer of these Islands and is paid by the Treasury from the emoluments of this country. The Attorney General is the head of the Government's Legal Department and is responsible for the institution of

all prosecutions unless brought privately. Pursuant to section 55 of the

Constitution, only the Governor can remove, or cause to be removed, the Attorney General. This power does not lie with this Honourable House or Executive Council.

Madam Speaker, for any country large or small, be it constitutionally independent or constitutionally dependent, to operate as a democracy there must be an effective separation of powers between the Executive, the Elected Government and the Judiciary. Every person irrespective of his position and no matter how rich or how poor must be guaranteed a fair and impartial trial. The rules to protect abuses must be strictly adhered to. History has clearly demonstrated that any deviation from these rules and principles over any period of time will lead to anarchy. The rule of law is of paramount importance to the well-being of our people and to the proper functioning of our country and economy. It is the foundation of any democratic country, and the people of the Cayman Islands have always believed this. If we ever thought we had protection at any time it was to believe that we had proper recourse in the Halls of Justice. The rule of law is the foundation of any democratic country.

The Attorney General instituted criminal proceedings in the Euro Bank trial. On 14th January 2003, some eight and a half months after the trial in the Grand Court began the Attorney General offered no further evidence and all defendants were properly discharged. The Chief Justice of these Islands had previously issued 47 pages of findings of fact which revealed a litany of gross abuses by the Crown. These findings of fact revealed, among other things:

(1) Mr. Brian Gibbs of the Financial Reporting Unit (FRU), which was under the control of the Attorney General, had been conducting clandestine operations in the Cayman Islands for over a long period of time with the knowledge of the Attorney General, among others.

(2) Mr. Brian Gibbs of the FRU had passed significant information in relation to the Euro Bank trial and other important matters to an agency in London, the Secret Intelligence Services—which, Madam Speaker and Members, was not a law-enforcement agency—and this was done with the knowledge of the Attorney General. Mr. Gibbs admitted under oath to being paid secretly by this agency. I can say that we also know a little bit more than that but that is for another time.

(3) The London Plan revealed in the evidence, and which was agreed to by the Attorney General, was a deception on the Grand Court of these Islands and involved presenting to the Court a state of affairs about the evidence which was not true.

(4) There had been inappropriate and improper actions by the Prosecution and Investigation

teams. Both were the responsibility of the Attorney General.

(5) There had been, at the very least, a grossly negligent approach by the Prosecution to its duty of disclosure to the Court and to the defendants. It should be noted, Madam Speaker, that long-established principles calls for full disclosure of evidence to the defendants and to the

Court in order to ensure a fair trial. This was an abuse of the process, to say the least.

(6) As a result of the failures and behaviour of the Prosecution team (which included all those involved in the process of prosecuting the case before the Court), there had been so serious an abuse and departure from long-established and well-respected principles that the defendants had been denied a fair trial and the Attorney General offered no further evidence against them.

The Attorney General was the person ultimately responsible for the commencement, continuation and conduct of the prosecution. The Attorney General, as head of the Cayman Islands Legal Department who took on the responsibility of the Financial Reporting Unit, initiated and had oversight of the prosecution and even appeared in Court as a prosecution lawyer, did not properly perform his duties in that he: –

(a) Preferred indictments against persons in the Euro Bank case which required the prosecution to establish that foreign tax was a predicate offence for the purposes of the Proceeds of Criminal Conduct Law.

This was in contravention of a carefully negotiated agreement with the Foreign Commonwealth Office (FCO) at the time the Proceeds of Criminal Conduct Law was passed. It was clearly understood then by the Foreign and Commonwealth Office, the Government, our private sector and our financial industry that foreign tax evasion was not to be a predicate offence for the purposes of the Proceeds of Criminal Conduct Law in the Cayman Islands, and the dual criminality role was to be the test. His actions were not in accordance with government policy or the laws of the Cayman Islands.

The Attorney General did not consult the Government on the matter, nor did he consult the Executive Council before proceeding to try to use it in that trial. This caused me, as Leader of Government Business on behalf of the Government, to make a statement to this Honourable House to the contrary, for which I got a proper good spanking. Needless to say, the five of us gave equally as good as we received.

(b) He failed to appreciate the evidence which the prosecution had to establish to satisfy the burden on the Crown in relation to a number of charges preferred against individuals in the Euro Bank case.

(c) He failed to exercise any proper control over the prosecution and/or participated in the events that prevented the defendants from being afforded a fair trial and led to the dismissal of all charges against them.

(d) He failed to exercise any proper control over Mr. Brian Gibbs, who has now run from the country and the Financial Reporting Unit (FRU) for whose operations and oversight the Attorney General had taken responsibility.

He took this responsibility, Madam Speaker, after he wrongly removed the operation and oversight of this Unit from the Commissioner of Police, thus sidelining the Commissioner. The Commissioner of Police, under the Police Law, is the proper person to be in charge of the Financial Reporting Unit and to whom the Attorney General returned the control of that unit immediately after the Chief Justice issued the findings of fact. In regards to that, Madam Speaker, our Executive Council told them that we did not believe they were moving in the right direction. We informed them that the Commissioner of Police, under the Law, was the person in charge. They ignored us then like they ignore us now.

(e) He failed to cause a careful examination of all the relevant evidence and to disclose important evidence and material to the defence in violation of the Law and time-tested procedures.

(f) He failed to disclose Mr. Brian Gibbs' relationship with the London agency despite full knowledge and participation in the arrangements. He, nor anyone else, told us anything about that until all this came to pass and we began our own digging and questioning and standing firm, as we should be!

(g) He participated in the passing of information to the London agency in contravention of relevant Cayman Islands Law.

The evidence clearly establishes that the London agency was not a law enforcement agency, which is in breach of the Confidential Relations Preservations Law. I ask this Honourable House whether that is illegal or not. To those of us who made the Law or amendments to it: Is this illegal or not? I ask Members opposite to consider that point.

(h) He participated in the London Plan, which led to the Grand Court being misled in a number of important aspects.

It should be noted, Madam Speaker, that the Attorney General was aware of the London Plan and inspected documents emanating from these Islands kept in London by the London agency, the Secret Intelligence Service, on more than one occasion. It is unthinkable that the Attorney General would lend himself to such an arrangement, irrespective of the nature of the advice which he may have received. The Attorney General's own flow chart filed in the numerous documents before the Court led to the inescapable conclusion that he understood his obligations pursu-

ant to the Law. He did not go into this blindly, which is the whole point that this House, the UK and the Governor must understand because I believe that the people of these Islands understand it.

One is only left to conclude that the Attorney General allowed himself to become part of the London plan only for the expedience of proceeding with the prosecution; to compromise his duty of full and frank disclosure to the Grand Court of these Islands, and in defence is wholly untenable.

On page 43 of the finding of fact by the Chief Justice, the Court indicated that the London plan has committed the prosecution to a course that was inherently misleading and required Counsel to represent to the Court and to the defence a falsehood. The Court went on to say the concern is that there should not have been a plan conceived in the first place which depended upon the court being misled.

Madam Speaker, I do not have a university education. I am but a public servant whom the people have trusted and elected five times to be the person to serve them. During my career I have tried to understand the Constitution by studying some constitutional cases and looking at the history. It has been of paramount importance to me that whoever goes out asking people to vote for me there be no tampering with the Court system in this country. That is important to me because that is all I have. If somebody attacks me, or any other Member in this Honourable House, our recourse is to stand here. Failing that we then go across the way to the Grand Courts and that was tampered with. Again, I say the cornerstone of democracy is the rule of law. That is all we have.

He allowed Gibbs to operate in the manner in which he did. From 1998 the evidence is clear that Mr. Gibbs' controlling agent was the United Kingdom Government Treasury. This alone speaks volumes as to where the Attorney General's loyalties were concentrated and may answer long-asked questions as to why our country is our burden with certain types of regulations as compared to the United Kingdom, the European Union, our competitors or the United States.

(j) He allowed Mr. Brian Gibbs to remain in office after the findings of fact instead of suspending him from office to await an independent decision as to whether he should be charged with criminal conduct revealed in the findings of fact. In that regard, on Thursday night we said, and stand by the fact, that he should be brought back here to face trial. He should be charged. He should be extradited and brought to face the Courts of this country. That is our opinion.

No one should lose sight of the fact that the trial ended prior to the Court being called upon to examine the constitutionality and legality of the arrangements made between Mr. Gibbs and the unnamed United Kingdom Government agency. According to the evidence of Mr. Gibbs, the Attorney General had knowledge of the arrangements. In the final hours

of the Euro Bank trial, the Attorney General said that if everyone had behaved properly the Prosecution would not be in the position it is today. These are telling words and are an implicit acknowledgement of mishandling of the Euro Bank trial for which this country will pay. Let us not forget that either, while we are on the *hobbyhorse* of criticising the Government.

Members opposite have to ask themselves who is going to pay for this fallout, and they should publicly state what their feelings are on that matter. A request for \$3.5 million has been issued to me, the Leader of Government Business, to the Honourable Deputy Leader, the Honourable Financial Secretary, and perhaps the Legal Department, enquiring about their \$3.5 million. Where will it end? Who is going to pay? Diplomacy? Madam Speaker, now is the time for a lot more than diplomacy because sometimes those people who are supposed to be diplomats do not understand it.

The Attorney General, by reason of his actions and position, must accept full responsibility for the events which resulted in the Euro Bank trial being a fiasco and for the inept, inappropriate and improper way it was handled. The Attorney General, as head of 'Operation Victory' (the code name for the Euro Bank trial, a plan conceived and funded by the United Kingdom's Government agency) lost sight of his legal obligations and duty in his effort to please the United Kingdom's Government Treasury and we should never lose sight of that. In so doing, he lost his moral compass and his obligations to these Islands as our Attorney General, our legal advisor, a Member of Executive Council and a Member of this Honourable House. The Elected Members of Executive Council—and I want to say here with the support of the Official Members sitting in Executive Council full time—depend upon the Attorney General to uphold the law.

The people of this country depend upon the Attorney General to uphold the law to ensure that abuses do not take place, not to participate in questionable plans, not to countenance behaviour which, on the face of it and when questioned, is not in accordance with the law. The Attorney General failed in his duties to the Court, the people and to the Members of Executive Council. We have lost confidence in his ability to guide us through very complicated and turbulent times. No right-minded person interested in ensuring the goodness for the people of the Cayman Islands could conclude, against the background of those facts I have outlined, that the Attorney General should not have resigned or retired. Had the right and proper course been taken by the Attorney General, this Motion of no confidence before this Honourable House would not be here today.

Madam Speaker, I draw attention to the headlines in the *Caymanian Compass* today, where the Opposition advises we not go ahead with this Motion because the Attorney General is not here and will not have an op-

portunity to reply. We agree that he should be here, but we do not agree that we should not have brought this Motion. Indeed, on Thursday I wrote to His Excellency the Governor advising that we were bringing this Motion when I did not have to because from the 20th of last month we told them. I remember the day clearly when we

told the public of this country that if he did not resign, or if the Governor did not remove him, we would bring a Censure Motion. They have had all this time to consider this, yet they did not. I wrote to the Governor advising that we were bringing this Motion and requesting clarification as to when the Attorney General would be back on the Island, since on Tuesday he told us that the Attorney General was leaving for a short time for vacation. We asked because we wanted him to be present for the debate.

Madam Speaker, His Excellency the Governor came to see me that afternoon in my office and advised that the Attorney General would be returning to the Island sometime after the Baroness's visit, but he was not sure of the exact date of his return. Furthermore, a press statement from the Governor's office, which appeared in the *Caymanian Compass* on Friday, 7th February 2003, advised that the Governor's office had received a second-hand notification from the Attorney General's Office stating he was leaving the Island and would be returning shortly. The press statement went on to say that the Governor's office did not get any clarification on whether this was for official business or private vacation, and they were not sure where the Attorney General had gone. This is a most serious revelation because there is a constitutional requirement for all of us Ministers and Members of Executive Council to obtain permission from the Governor before leaving the Island for any reason and it states who will be acting for you. It would appear that the Attorney General has not only left the Island without permission from the Governor, but no one seems to know his whereabouts and exactly when he might return. What a sorrowful state of affairs!

Madam Speaker, what do they take the Elected Members of this country for? I said in Bodden Town the other night, *Are we men or are we mice?* We are not fools! We do not sit in the Glass House and say one thing and then in a public statement say something else. I will take this up tomorrow in Executive Council so no one can say that I am talking behind his back.

As we have demonstrated, the Government has attempted to ensure that the Attorney General was present for the debate, but he has left the Island and no one could confirm exactly when he is returning. Under the circumstances, we believe that it is unreasonable to expect us to delay the debate and the Motion to await the return of the Attorney General since we do not know when he returns. The Attorney General is aware that the Motion before this Honour-

able House was imminent and if he wanted to be here to debate this very serious issue he would certainly not have left the jurisdiction at this time.

I want to further point out to the Opposition that every respectable organisation in this country—the banking fraternity, the Chamber of Commerce, the Merchants' Association, the Law Society, the Bar Association among others—have said they have no confidence in him. So, Madam Speaker, what is the Opposition carrying on about? The Opposition has to make sure where they want to be! They cannot be on one side one time and on another side the next time. In this issue, it is clear we are not only talking about the individual. We need to consider what damage can be done in defending an individual rather than defending the system.

Madam Speaker, we as a Government, like any other government, can be criticised. The duty of the Opposition is to oppose, and boy, they surely know how to do that! The Opposition's job is to oppose, but the Government's job is to do the right thing regardless of whether Opposition or anyone else supports it. My feeling is that the responsibility of Government is to lead and to do the right thing. Let there be no mistake: the people of this country have shown that they are prepared to head the fight against money laundering. We have passed some of the most stringent, anti-money laundering laws in the world. We have put persons and organisations in place to uphold these laws. We have committed resources which, when compared to the wealth and resources of other countries globally and regionally, we demonstrated a commitment which cannot be legitimately criticised. Our commitment and resolve in this regard is unshaken. This Motion has nothing to do with that. We have demonstrated our willingness to fight with every last cent against crime, terrorism and anti-money laundering. This Motion demonstrates that we will stand not only with every last cent, but also with our very last breath for what is right – the rule of law and justice for all!

Madam Speaker, if it had been your son, my son, or anyone else's son, any public service, any police officer, any Member of the Legislative Assembly, we would have been charged before the Court and we would have been locked up and tried by now. That is what I stood against and what I remain to stand against today. There should be no mistake. For 30 days we have acted reasonably to try and resolve this issue. We have asked the Foreign and Commonwealth Office and we have begged for constructive dialogue. We have pointed out the relevant facts; we have pointed out that we do not wish any confrontation; we only wish for these Islands and our people to be treated fairly and justly. We wish these Islands and our people to have a fair and adept legal advisor on whom we can rely on and whom the people of this country can trust and have confidence in.

Madam Speaker, on Tuesday last week Baroness Amos, our Minister in the Foreign and Commonwealth Office, called me. She said that we must not go ahead with any censure motion, but she had not changed her position. They have full confidence in him and they do not intend to remove him. That is what we were told. What should we do? We wish our people to be confident that the Elected Members, in carrying out the people's business, are able to follow legal advice of the principal legal advisor for the government with confidence as to its impartiality and effectiveness. We wish to ensure that the Courts can rely upon the Attorney General to act in accordance with the Magna Carta with accepted legal principles and to uphold the rule of law. This is essential for our country to prosper and our children and grandchildren to enjoy a reasonable standard of living in a society which is fair, just and equitable. We want nothing less, and the investors who put their money in these Islands accept nothing less. We cannot now be confident of these things. We, along with all right-thinking members of this community, lost all confidence in our present Attorney General to guide us in the right direction and to behave responsibly and rationally. With this Motion we are demonstrating our feelings and the feelings of the people.

We continue to hope that the Foreign and Commonwealth Office will see fit to find a right and proper solution to this problem. We should realise that had the Attorney General of the United Kingdom been so negligent in his duties to the Courts of the United Kingdom and participated in the events found by our Court to have occurred, he undoubtedly would have resigned, retired, or he would have been replaced without the necessity of the Commons in the United Kingdom passing a motion of no confidence. We think that would be *'sauce for the goose'* in the United Kingdom. We also think if that is the case, then it also should be *'sauce for the gander'* that the United Kingdom has permitted to waddle in these Islands. The United Kingdom's system of justice and appreciation, the separation of powers and the rule of law is where these, our Islands, derive our legal system and we are required to take an oath to that when we are sworn in as Members of this Honourable House.

In a recent case decided a couple of days ago by the Court of Appeal in the United Kingdom, convictions were set aside in a £105 million customs fraud case by reason of failure of the Prosecution to disclose relevant evidence of informers to the Court and to the defence during the trial of that matter. Enough said.

Madam Speaker, I am proud of our system of justice. It is all that we have. We do not have a Constitution that gives us power to remove the Attorney General, but we have a system of law and what is right can only be right. The Court system has demonstrated to the people and to the world that justice must

not only be seen to be done but it must be done. The rule of Law is paramount and when efforts are made to abuse the system we will not tolerate them. We stand behind the independence of our judicial system and we thank God for the integrity, strength and fortitude of our Chief Justice in whom we are proud.

Madam Speaker, this Motion to declare that we have no confidence in the Attorney General is, in all circumstances, properly and timely brought to this Honourable House. We ask that everyone in this Honourable House unreservedly support it. If you love this country, support it without any further argument.

We recognise that we do not have constitutional ability, but this Motion sends to the world, in particular, the United Kingdom Government that we will not tolerate or countenance interference by any law officer. Once we have the facts before us we will go the full length. We cannot remove the Attorney General by this vote, but we certainly will send a strong message to the United Kingdom Government that we will expose them when they do wrong to the Cayman Islands. This is not about me, this is not about us. This is about the integrity of these Islands. It is time that all of us stand here and say that, rather than going behind closed doors to talk. It is time for action. Again, the cornerstone of democracy is the rule of law.

Thank you very much, Madam Speaker, and I do apologise for the lengthy introduction.

The Speaker: Does any other Member wish to speak? The Second Elected Member for the district of George Town.

[Pause]

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

In the course of this crisis much has been said by the Government, in particular the Leader of Government Business, of what he has claimed is ambivalence or worse on the part of the People's Progressive Movement. He spoke, in particular, about Parliamentary Opposition's position regarding the crisis involving the Attorney General.

At the very outset, let me make it abundantly clear that we have always taken the position that given the seriousness of the matter and the demonstrated loss of confidence in the Honourable Attorney General, Mr. David Ballantyne, by this entire community, we agree that he should retire from office. That was not, has never been and is not now the issue. The issue fairly and squarely is one of mishandling of this matter which has brought us to the constitutional crisis that we now face. It is that matter which the Parliamentary Opposition expresses the gravest concern about and is the matter which we seek to address today.

Madam Speaker, there comes a point when those who seek to lead are called to centre stage and required to perform. It is at this defining moment when leadership skills and abilities are most required that the true measure of a would-be leader must be taken. The constitutional crisis that has resulted in this special meeting of the Legislative Assembly has brought the Cayman Islands to this point. The very fact that we are here this morning to debate a Censure Motion against Mr. David Ballantyne, the Honourable Attorney General, must call into serious question the leadership abilities and skills of the Leader of Government Business, and more generally, his entire United Democratic Party's administration. I say that because we are here today at this critical point because a serious national issue which requires diplomacy, tact, and sensitivity has been so gravely mishandled by the Government. As a result, the public and those who do business with the Cayman Islands have become frightened by the consequences to this country of what is now unquestionably a crisis. What is worse is that there seems little likelihood that the matter will be resolved anytime soon as the Government appears intent on continuing down the misguided course that it chartered a month ago.

The UDP Government seems to believe that the way to persuade the United Kingdom Government to do what we wish and ensure the retirement of Mr. David Ballantyne and his departure from these Islands is to stand on a public platform and hurl insults at the United Kingdom and its Ministers of Government. In truth, as all right-thinking people in this country will understand, nothing is more unlikely to achieve that result than that sort of conduct. Before shouting his head off, the Leader of Government Business, when faced with this debacle, should have gone to London for talks. Why did he not do so? Did he feel perhaps that he was not up to the task?

The Speaker: Honourable Member, I will draw your attention to Standing Order 35(3) and (4) where it is out of order to use offenses or insulting language about any other Member, and no Member shall impute improper motives to another Member. I would ask you to please keep the level of your debate high; as I know you are most capable of so doing.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker. I would be most grateful if you could identify what insulting word I used so that I could desist from using it.

The Speaker: Please take your seat, Honourable Member. I have made my ruling and it is not my intention to engage in any cross-debate with any Member of this Honourable House this morning. I now ask you proceed with your debate accordingly.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, the Honourable Leader of Government Business shouted out about who will pay for the fallout from the Euro Bank fiasco and he asked us to consider that very important question. It is an important question and one that gives us great concern as well, but shouting about it is not going to achieve the result of having the United Kingdom Government pick up the tab. If they do not, then what is he going to do? Sue them? The Government seems to have forgotten in the storm that has followed the Euro Bank crisis precisely what our current constitutional status is.

The Government has described the PPM's handling of this matter and our position on this Motion as indecisive. Well, if refusing to rush to judgment and demonstrating a willingness to be reasonable and discuss this matter can be properly characterised as indecisive, then we plead guilty. Put our own perceived sins aside. The lack of leadership demonstrated by the Government in this matter can only properly be described as woeful. You see, Madam Speaker, good leadership includes the ability to deal with the pressures that are inherent in a national crisis without becoming hysterical, as this Government has done. It is not just the ability to deal with crises that is necessary; good leadership also requires the foresight and judgment to avert potential crises and to mitigate the fallout from serious events and incidents which the Government has failed to do in this case. Good leadership, Madam Speaker, also demonstrates the ability to prevent serious issues from becoming critical and critical issues from becoming disastrous, an ability that the Government plainly lacks.

You see, Madam Speaker, contrary to what the Leader of Government Business believes, the true measure of leadership is not who can shout the loudest or threaten the most but who is capable of facing major issues with calm and reason, of reassuring a worried nation, of averting a constitutional crisis, of resolving a difficult issue and moving the country beyond the event. That is what good leadership is.

Having said that, I pause here to reaffirm what I said at the start and to put beyond any doubt what the position of the People's Progressive Movement and the Parliamentary Opposition, who are all present here today, is. We agree with the Government that the country, as a whole, has lost confidence in Mr. Ballantyne and his ability to properly carry out the functions of this very important office and, consequently, he should retire. On that basis alone we will vote in favour of the Motion. I hope that is plain enough for the Leader of Government Business.

With that said, Madam Speaker, we have grave reservations about the timing of this Motion as we are all very aware that it has no constitutional basis and can have no practical effect other than to aggravate the already strained relationship which we

now have with the United Kingdom Government. Baroness Amos . . .

[Inaudible interjection by Member of the House]

The Speaker: Order.

Mr. Alden M. McLaughlin, Jr.: . . . Madam Speaker, will arrive here in a mere six days. Why is the Government insisting on proceeding with this Motion in full knowledge of that fact? Why not wait another week and try to resolve this matter through dialogue with the Baroness? Perhaps the answer lies in statements made by the Leader of Government Business at a public meeting held in Bodden Town last Thursday night. He is reported to have said that this Motion will send a strong message to the United Kingdom Government and show them that "we mean business". That arrogant attitude and apparent lack of understanding, firstly, of our constitutional standing and, secondly, the handling of international relations are the very reasons why we are now in the throws of a major constitutional crisis. The strong message of insolence that sends to Her Majesty's Government is bound to make the resolution of this matter even more difficult.

I said earlier that the Government had chartered a misguided course in dealing with the Euro Bank debacle and the fallout from it, but perhaps that was too kind a characterisation. Indeed, it would be difficult for this matter to have been more badly handled and the bringing of this particular Motion at this moment is but another example of that gross mismanagement.

The People's Progressive Movement and the Parliamentary Opposition share the entire country's outrage and feeling of violation in the aftermath of the Euro Bank trial. The revelations contained in the findings of fact of the learned Chief Justice have uncovered a grave state of affairs that, unquestionably, require action on the part of the Government. We say that what ought to have been done at the outset was for the Government to contact the Parliamentary Opposition and ensure that it had bipartisan support and then proceed either in concert with the Parliamentary Opposition, or on its own if it so desired, to London to seek to negotiate a solution to this matter. The matters that need to be discussed and still do are not only the departure of Mr. Ballantyne as Attorney General and the replacement of him, but also the restructuring of the office of the Attorney General and the Financial Reporting Unit. Instead of seeking a diplomatic resolution to this matter, the Leader of Government Business has seemed much keener to indulge himself in posing on public indignation than bringing about a result which would serve the vital interest of this country.

The Leader of Government Business' various statements to the media immediately following the

release of the Honourable Chief Justice's findings of fact demonstrated such a lack of understanding of our constitutional status and such utter disregard for the consequences of the serious accusations he made against the United Kingdom Government that, quite frankly, it is scary. Apparently, it was not sufficient for him to immediately and publicly call for the Attorney General's resignation, but he went on to accuse the United Kingdom of being engaged in a cold war against the Cayman Islands and involved in a conspiracy to destroy the financial industry of these Islands. This unrestrained and highly provocative rhetoric has continued unabated, and at the meeting last Thursday evening in Bodden Town, the Leader of Government Business insisted again that the United Kingdom Government is "hell bent on destroying the financial industry of these Islands because we are in competition with them".

Now if those statements are true, then the Cayman Islands are in huge trouble. If they are not true, then the Leader of Government Business has been guilty of gross irresponsibility. Either way, they are deeply damaging to the Cayman Islands and are bound to further erode confidence both locally and internationally.

Many people in this country and outside it are seriously worried about the anti-United Kingdom rhetoric that has seemingly become the sine qua non of the Government in its campaign to rid the Cayman Islands of Mr. David Ballantyne and to exact retribution for the sins of Mr. Brian Gibbs. Where is this taking us? Are we starting the walk down Independence Street? If so, we could not have chosen a more disadvantageous time or a more disastrous way of setting about it.

Madam Speaker, the posture of the Government is, quite frankly, most alarming. Even the Minister of Education—from whom we expected better—has joined the Britain-bashing club and last Thursday night publicly derided Baroness Amos for her Britishness and spoke about her in what can only be described as a most disrespectful manner. He even suggested that if the Parliamentary Opposition does not support this Motion here today "perhaps they should follow the Attorney General and go to England too". That is the level of irresponsibility that has permeated the entire campaign by the Government to get rid of Mr. David Ballantyne.

We all agree he should go, but not in this way. We must do these things with regard for the office which he holds under our Constitution. We must behave with some dignity and some decorum and understand what the long-term objective is. When David Ballantyne leaves these shores another Attorney General will fill his shoes. Unless we address the systemic problems that are in the constitutional provisions which permit this kind of behaviour we are complaining about to occur, we will be right back where we

started from, except this time we will have a black eye as a result of what has transpired. That, Madam Speaker, is what has been lost sight of by the Government in their handling of this entire matter.

Madam Speaker, in light of the position taken by the Government and the statements they have made, in particular those they have made about Baroness Amos who will be here next week, we are seriously left to wonder whether the Government is even remotely interested in resolving this matter, or whether it is deriving some perverse satisfaction out of the state of turmoil and uncertainty that this matter has created. Certainly, inflammatory anti-British remarks which have been made and continue to be made will not foster good relations and will not provide the kind of atmosphere that is conducive to the resolution of this matter when the Baroness arrives next week.

Through it all it appears to us that the Government has lost its bearings in the storm that has resulted from the Euro Bank case. They have become blinkered in their obsession to get rid of Mr. Ballantyne that they have lost sight of the big picture, and in the process have forgotten that we are still a British Overseas Territory. On that point, while the Parliamentary Opposition disagrees with almost everything that Douglas Calder said recently in his extremely offensive and insensitive letter to the press, he is perhaps correct in one respect. We believe that the only situation in which the United Kingdom Government could and would consider suspending our Constitution is in a serious crisis, which the Government is creating by the way it is handling this matter. However, Madam Speaker, if as it seems the Government has, indeed, forgotten the true nature of the constitutional relationship which we enjoy with the United Kingdom, then the practical and constitutional result of this Censure Motion we are debating should serve as a reality check and remind them exactly where we stand, constitutionally speaking. This Censure Motion has no constitutional basis and no practical effect precisely because of our present constitutional status.

Under the current Constitution, the choice of the Attorney General and his appointment is entirely a matter for the United Kingdom Government. Once he is appointed he is guaranteed security of tenure under the Constitution. He can only be removed for misbehaviour or for inability to perform the functions of his office and even then only after adverse findings of fact by a tribunal appointed by the Governor.

Under the current constitutional arrangement, the whole object is to ensure that the office of the Attorney General is put beyond the reach of the political directorate. Whether the Attorney General should continue to be appointed in the manner he currently is, and whether his position should be quite as unassailable as it currently is, is another matter and one which I will return to in due course. Given the present constitutional protections afforded the holder of that office, it

should be patently obvious to the Government that ranting and raving, and even bringing this Censure Motion which we now debate, are all exercises in absolute futility. That comes to the most important point in all of this, a point we have made repeatedly over the past month. The only way this matter will be resolved satisfactorily is through constructive dialogue with the United Kingdom Government and the current Attorney General. Nothing else will work - not censure motions, not threats, not bluster, not derogatory remarks and certainly not anti-British rhetoric. We have urged the Government in the past and we do so again this morning: cool the rhetoric; lower the temperature of the water; let us engage the United Kingdom Government in constructive dialogue.

We know feelings run high in matters such as this; we feel the sense of injustice just as any other right-thinking resident of these Islands does for those who may think otherwise. Yet as leaders and representatives we must not allow our emotions to override reason. We must agree to talk to each other and to all parties concerned, no matter how you dislike them or what they have done. That is the only way we will achieve settlement of this matter.

So, Madam Speaker, you can understand why we are so distressed to have learned recently that the Government, that is, the Elected Members of the Executive Council, have refused to meet and talk with Mr. Ballantyne regarding this matter. How is the matter to be resolved if the Government refuses to meet with one of the other two parties concerned? Given what was said last Thursday night about Baroness Amos, are we now to conclude that when she arrives next week they will refuse to meet with her as well? I hope not. I hope that even this Government would not act so irresponsibly.

While I am on the issue of dialogue, the Government has made misleading statements, again, at its public meeting last Thursday night, and accused the Parliamentary Opposition of holding secret talks with members of the Foreign and Commonwealth Office. Nothing could be further from the truth. Mr. Ian Hendry arrived in Cayman, he met with the Government, he met with the Opposition and then he met with us jointly. That is the extent of the discussions and meetings we have had with representatives of the Foreign and Commonwealth Office. We are certainly anxious to resolve this matter because it is causing great anxiety and concern to the good people of these Islands and many outside these Islands who have interests here. Because of that we are fully prepared and willing to engage in discussions and dialogue with anyone who we believe might assist in achieving a resolution on this matter. We certainly have held no secret talks and we will hold no secret talks because I am not sure what purpose they would serve. I am not sure what inference is to be drawn from what has been said by the Government in relation to this matter,

but I am certain that the inference is intended to be an adverse one.

The People's Progressive Movement and the Parliamentary Opposition in particular are not groups of Anglophiles as the Government has inferred. Rather, the Parliamentary Opposition and the People's Progressive Movement as a whole, are made up of people who have a deep and abiding love for this country and who are gravely concerned about the current state of affairs and the Government's handling of this critical matter. We have our feet rooted firmly in reality and we understand with all of the noise and ya ya that goes on, there are constraints inherent in the constitutional relationship we enjoy with Her Majesty's Government and the United Kingdom. We also understand that no matter how passionate and well-meaning our intentions, no matter how angry we get at the injustice that we perceive has been done to us as a country and as a people, notwithstanding all of those things we must act reasonably and operate within the constitutional constraints that are a part of the relationship we have with the United Kingdom.

I should also say this, Madam Speaker: we regard the talk of early independence emanating from the United Democratic Party camp as alarming and irresponsible. If the point . . .

Point of Order

Mr. Rolston M. Anglin: On a point or order, Madam Speaker.

The Speaker: Please state your point of order, Second Elected Member for the district of West Bay.

Mr. Rolston M. Anglin: Madam Speaker, can the Second Elected Member for George Town tell this House where the talk of independence is emanating from the UDP camp?

The Speaker: The Second Elected Member for George Town, could you, first of all say, whether it is a statement of fact or whether it is your opinion?

Mr. Alden M. McLaughlin, Jr.: It is a statement of fact, Madam Speaker, made to me by a signed-up member of the United Democratic Party, not an Elected Member of this House. If the Second Elected Member for West Bay wishes me to disclose his name, I am quite happy to do so.

Point of Order

Hon. Gilbert A. McLean: Madam Speaker, on a point of order.

The Speaker: The Honourable Minister responsible for District Administration.

Hon. Gilbert. A. McLean: Madam Speaker, the Member has been carrying on this debate and has been consistently imputing things to the Government, straying from the topic. Now he is trying to enter a statement made supposedly by someone who is a signed-up member of the UDP—not a member of this House—into this House as if the Government is saying it. He is totally misleading and out of order.

The Speaker: The Second Elected Member for George Town, would you have in your possession a signed affidavit to that effect from the said member?

Mr. Alden M. McLaughlin, Jr.: No, Madam Speaker, but I will undertake to try to get one.

The Speaker: In the circumstances, I would ask that you kindly withdraw that remark as the Chair finds it out of order in the absence of evidence.

Mr. Alden M. McLaughlin, Jr.: Duly withdrawn, Madam Speaker.

The Speaker: Thank you. Please proceed.

Mr. Alden M. McLaughlin, Jr.: But, Madam Speaker, just to deal with this independence point generally, if the people of this country decide that we should sever our ties with the United Kingdom Government, then so be it. However, if that is the course we are going to take . . .

Point of Order

Hon. W. McKeeva Bush: Madam Speaker, on a point of order.

The Speaker: Please state your point of order, Leader of Government Business.

Hon. W. McKeeva Bush: Madam Speaker, I am drawing your attention to the Standing Order that deals with relevance. Motion No. 11/02 talks about expressing a loss of confidence in Mr. David Ballantyne. We have not entered anything about independence because of our constitutional advancements and because we have no mandate for such. I have listened to that Member deride the Government and stray very far. He is not debating the Motion before the House, and I think you ought to rule in that regard, on relevance, Madam Speaker, as I said.

This Motion expresses a loss of confidence in Mr. David Ballantyne, Government's principal legal advisor/Attorney General and Second Official Member of the Legislative Assembly and of the Executive Council. I think the Member has strayed enough in his vitriolic attacks this morning.

The Speaker: The Second Elected Member for the district of George Town, I would wish to draw your and all other Honourable Members' attention to Standing Order 36(1) which reads as follows: "**Except on a motion for the adjournment of the House the debate shall be relevant to the matter of question before the House or Committee; and where more than one question has been proposed from the Chair the debate shall be relevant to the last question so proposed until it has been disposed of.**"

As I have read and accepted the duly filed Motion, there is no direct or indirect inference of the issue of "independence", and I will ask you and all Members to refrain from any inference. I am sure that with the imminent pending constitutional debate there will be more than ample time and scope to deal with such an issue.

Please proceed.

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, we implore the Government to adopt a more reasonable approach to this matter than, in our view, they have done in the past. We are proposing the appointment of a bipartisan delegation consisting of Elected Members of both the United Democratic Party and the People's progressive Movement to sit with Baroness Amos and Mr. David Ballantyne, when the Baroness arrives, in an effort to find an early and satisfactory resolution to this matter. I hope that proposal will not be dismissed offhand. It is one that we believe has the ability to succeed where all else has failed. There is little that can be achieved with 15 Members of the Legislative Assembly meeting with the Baroness and the Attorney General. There are simply too many different voices in the same room. We are proposing that a smaller number of delegates be appointed from both parties and that we sit down in the spirit of national unity and bipartisanship and attempt to resolve this matter.

You see, Madam Speaker, we are here today debating a Censure Motion against the current Attorney General, Mr. David Ballantyne, because of a money laundering investigation and trial that has gone terribly wrong for which he is ultimately responsible. We have all concluded that as a result of that, Mr. Ballantyne should retire from office. What then? What of the systems that permitted the wrongdoing or failures in the first place?

Successive Attorneys General and Governors must have known of the existence of MI6 and of the existence of an MI6 agent, most ominously, as the head of our Financial Reporting Unit. What are we going to do about that? That is an important question which must be answered, and spending time debating a Censure Motion—which can have no practical effect—is not going to answer that question.

The parliamentary Opposition has expressed concern in this Honourable House about the structure,

functions and leadership of the Financial Reporting Unit for more than a year now. We have also been concerned that the head of the FRU, which is an investigative unit, reports to the Attorney General who is in charge of prosecutions.

Now, the Governor has announced that the operations and structure of the FRU are to be reviewed, but we do not believe that goes far enough. The Government is seeking today to censure the Attorney General, and it has also called for the extradition of Mr. Gibbs, former director of the FRU. Yet, why is there to be no independent inquiry into the entire Euro Bank debacle? That, Madam Speaker, is the Government motion that we should be debating today – a motion calling for a full and independent inquiry into this troubling affair, not a motion that seeks a hollow and impotent resolution against the Attorney General.

The Euro Bank fiasco has also thrown into stark relief the concerns earlier expressed by the Parliamentary Opposition in relation to the manner of appointment, the functions and the tenure of the holder of the office of Attorney General. Indeed, this very Censure Motion highlights one of those main concerns to which I have earlier referred. The Attorney General is appointed by the United Kingdom Government and cannot be removed by the political directorate in the Cayman Islands which is the real bone of contention in this matter. We hope that the unreasonable approach the Government has adopted in this matter has not squandered the opportunity to discuss meaningful changes to the way appointments are made to the office of Attorney General and the way those appointments may be terminated. We have long advocated that under the proposed new Constitution the Government should be able to choose its own legal advisor. We have also proposed that to avoid the potential conflict that is inherent in the office of Attorney General, the Attorney General should be relieved of the prosecutorial functions that are currently a part of his office and those functions should be vested in the Solicitor General. We urge those proposals again with even greater vigour and we hope that the ongoing constitutional review process will enable some of those fundamental changes to be made.

The national interest requires that the impasse between the UDP Government and the UK Government in relation to the Attorney General be resolved quickly. That demands that through dialogue a means be found to permit the Attorney General to retire from office with some semblance of dignity and with his personal integrity intact. Given all that has been said, that will require some effort but effort must be made. While we spend time unproductively debating a Censure Motion which will have no practical consequence, serious concerns arising from the Euro Bank trial go un-addressed. The national interest requires that suspected money laundering be dealt with

effectively; Euro Bank represented a total and very public failure to do so. As far as can be seen, nothing whatsoever has been done to investigate the failure and make the changes needed to ensure that in the future the job will be done effectively. Indeed, the situation is worse because one can hardly expect the FRU to receive unguarded cooperation from a community that has good reason to doubt the FRU's honesty and its respect for the law. The national interest also requires that this country be seen abroad as a committed and effective participant in the international campaign against money laundering. That is now being questioned in the international press and, most regrettably, by the FCO itself. So now we run the risk that doubt is cast on all our law-making and law-enforcement institutions.

Hon. W. McKeever Bush: Yeah, you are here defending them.

Mr. Alden M. McLaughlin, Jr.: That is the state of affairs, Madam Speaker . . .

The Speaker: Order.

Mr. Alden M. McLaughlin, Jr.: . . . that we cannot allow to continue.

The national interest also requires adherence to the rule of law in fact and perception and confidence in the integrity of law enforcement. It requires confidence in the Attorney General and respect for his office. The Chief Justice's findings of fact have eroded that confidence and respect. In the present circumstances, any observer here or abroad cannot fail to question whether the office of Attorney General exists to serve the interest of this country. The current impasse between the Cayman Islands Government and the United Kingdom Government perpetuates and exacerbates that impression. We must resolve this matter immediately if all confidence is not to be lost.

The national interest requires a constructive relationship with the United Kingdom Government and confidence in the Governor, not because we are particularly fond of the United Kingdom but because pragmatism requires that the relationship is one of mutual respect and understanding. That is going to require considerable work and rehabilitation given all that has been transpired.

After the Euro Bank disaster this country was entitled to expect that a reasonable solution would be reached quickly by agreement by all concerned so that the country could move forward, make the necessary changes with all speed, restore confidence and repair damage. That did not happen and the situation continues to deteriorate, with this Censure Motion providing further fuel for the fire. This Motion will not bring closure to this matter but closure must come and come quickly. Closure can and will only be achieved

through dialogue. Let us talk even to those who we believe have betrayed our trust and the country. We must resolve this matter, not in the interest of anyone else but in the national interest. We have been critical of the Government's handling of this matter and for that I have drawn some fire this morning, understandably so. However, that criticism was necessary because if methods are not changed the present crisis is likely to continue and become much worse, doing great damage to the stability and economy of this country. We agree—at least I hope we agree—on the objectives, so let us pool our thoughts, efforts and resources in order to achieve them, working together with our eyes on the problems that confront us, not with our eyes on the next election. I remain optimistic that we will succeed.

I thank you, Madam Speaker.

The Speaker: Thank you. Does any other Member wish to speak?

The Honourable Minister responsible for Health and District Administration.

Hon. Gilbert A. McLean: Thank you, Madam Speaker.

Shakespeare once said, "Methinks he doth protest too much."

[Background laughter and comments]

Hon. Gilbert A. McLean: I felt compelled to rise now to speak on this Motion. Before I offer my opinions directly to the Motion, I think it is in order to speak to some of the things said by the last speaker. I would also observe that whether or not the Baroness is coming on the 17th, she has been well represented here in this House this morning. Additionally, although the Attorney General is not here, he too has had his cause well placed.

[Inaudible comments from the Honourable Leader of Government Business.]

Hon. Gilbert A. McLean: Madam Speaker, I think it is unfortunate that the reply from the Opposition should have taken such a purely political position. It is truly not about the government of the day and supposedly how it mishandled the matter of relating to the Attorney General, but it is about the things which have occurred as a result of the findings of the Chief Justice in the Euro Bank case. The last speaker offered some insight into this in the last part of his speech. Had he gone along those lines in the beginning, it would have been easy to follow.

Madam Speaker, let me first speak to the question of the mishandling of this whole matter. The Government learned about the Chief Justice's findings at the same time the rest of the country did, and if

anyone responded too quickly it was the Opposition. Before the Government could make a statement . . .

[Comment from the Honourable Leader of Government Business]

Hon. Gilbert A. McLean: . . . the press was calling the Government, asking if we wanted to make a statement because the Parliamentary Opposition had sent them one. They wanted to know what our side would be and that is a fact.

Hon. W. McKeeva Bush: Misleading the House.

Hon. Gilbert A. McLean: I might add that the Parliamentary Opposition was calling on the Government—

Hon. W. McKeeva Bush: To do something.

Hon. Gilbert A. McLean: —to do something about the situation. The most the Government could do was make an initial statement expressing its concern about what had happened, and of course, at that time we expressed our great astonishment to learn that the United Kingdom Government, which is the administering colonial power for the Cayman Islands, had allowed one of its spy agencies involved in the way it had. The head of our Financial Reporting Unit had obviously acted illegally. We also learned that the Attorney General was aware that he, in effect, was following what was called the London Plan. Everything seemed to be out of order with this case, so we were astonished like everyone else. We took our time before we acted or made a full statement. We held a public meeting because we have nothing to hide; and we want the people of this country to know as much as we do about this situation so that they can be informed and they can form their own opinions, and we did that. I suggest that is not mishandling the case.

From the beginning we said that we had lost confidence in someone who had been our colleague up to that point, and we did not wish to sit with him in Executive Council after that because we did not have the trust nor the belief or confidence in him that we had before. We also made the statement that we would not wish to sit with him here in the Legislative Assembly. Madam Speaker, that is not mishandling the case. What is for certain is if we had sat and allowed only the statements from the United Kingdom Government, those issued by the Parliamentary Opposition and those issued by the Governor on behalf of the United Kingdom to stand unanswered, the public could not have been informed as it should have been.

Madam Speaker, it is astonishing that the same foolish arguments that have been going on for

the past decades about Constitution and independence are coming out on the Floor of this House today.

[Background comments: 'Hear, hear!']

Hon. Gilbert A. McLean: The reason why the last speaker could talk about the unfortunate way the post of Attorney General is placed in the Constitution is because of the ignorance and foolishness over the years rather than paying attention to amending the Constitution and making it workable. It is because of that why he could talk about the way the appointment of the Attorney General is done and why, in effect, it should be changed. It is the same foolishness that we fall victim to year-after-year, decade-after-decade, and those who would keep us in subjugation in this form laugh because we are doing it to ourselves.

Madam Speaker, the last Member talked about being hysterical. Who is hysterical? It is certainly not the Government. He says we need to approach this matter with tact and diplomacy. We have done that. The Government is most respectful in the Executive Council with His Excellency the Governor. We have replied when necessary to statements that were made, so the crisis that the Opposition is speaking about I really do not know where that is in the country at this time, for the day-to-day business of Government is going on as before. I see no people in the street. This is a duly, legally called meeting of this Legislative Assembly that we have here, so I do not know where the crisis is.

Hon. W. McKeeva Bush: Him! He is the crisis. See the crisis over there?

[Laughter]

Hon. Gilbert A. McLean: When we speak about insolvency, to my mind it relates to a sort of mother and child situation. While that may be a way of describing our relationship with the United Kingdom Government, surely none of us can claim in here to be children. We have some ourselves. We cannot claim to be children in the sense of the word that we are young and immature and so on. If that is the case, we certainly should not be in here as Members.

Madam Speaker, when the Leader of Government Business, or various other Members of Government, speaks of our concerns that this situation is damaging to the financial industry and the country on a whole, I do not think that anyone can truly argue to the contrary. A shadow has been cast on the dealings of the Attorney General, the Chief Legal Advisor to Government under the Constitution. Doubt has been cast on the investigations carried out on Euro Bank and other investigations now. People who are doing business in the Cayman Islands must be concerned if they have been spied on how much information might

be known on them. Is it a place that they should continue to do business? That is destructive to us. That is destructive to this country. That is where the problem lies.

Madam Speaker, no one has forgotten in Government that the Cayman Islands are a British Overseas Territories country. How can we? If we had forgotten about it, the Member who spoke for the Opposition has certainly reminded us numerous times today. There is talk about a matter raised by him about suspension of the Constitution, and it would only occur if there was crisis. Indeed, the Cayman Islands are in a crisis. I suggest that it would be one of the most unexplainable things on the face of the earth to even consider that anyone associated with the British Government would attempt to do such a thing here in this country to affect the ongoing peace, order and good government.

There are three things that the country on a whole is talking about and it seems everyone in it: the fiasco of Euro Bank, Brian Gibbs and the Attorney General. Brian Gibbs has left for places unknown to us. The Attorney General, who is a Member of this Legislative Assembly, is also not on the Island, or so I understand. Where is he? I would not know. However, as for the question of having dialogue with him, where do we begin? We have had dialogue with the Governor and we are told the Governor had dialogue with him. We understand that at least one Member of the Opposition has had dialogue with the Attorney General. What did the Attorney General tell him?

Hon. W. McKeeva Bush: Yeah, where he is gone?

Hon. Gilbert A. McLean: It has been said that we have to give the Attorney General the opportunity to leave with dignity. One of the most dignified ways of leaving a job is to resign from it.

Hon. W. McKeeva Bush: True.

Hon. Gilbert A. McLean: He has not taken that dignified way. Why? is the major question. Why does the British Government insist that the Attorney General continue in this country? Why does the British Government continue to say they have faith and confidence in him when everyone in the Cayman Islands is saying otherwise, including two legal associations who have said they have lost confidence in him? That is a peer review. They have said who could be better judges than they as far as peers go. We talk about an impasse. The impasse is the result of the British Government's insistence that he remain here. Why?

Hon. W. McKeeva Bush: Hear, hear!

Hon. Gilbert A. McLean: Is there unfinished business which he has to do that we do not know of and might

be surprised to know? What does he believe he can do for us or give us at this point in time that have not been done before? Those are the questions that remain unanswered. Why is it that we must have our lives, our financial services sector, our whole economy in a position of jeopardy because of one individual; one lawyer? There are thousands more in England I am sure other than him. Why not send us one of them to fill the job? Why must it be him? Why must it be so insulting a thing that we, the duly Elected Ministers of the Executive Council, must take the advice of the present Attorney General when the whole world has expressed their doubt and lack of confidence in him?

He is involved in virtually everything that Government does, including negotiations relating to the European Union, the OECD, advising us on all matters legal, Elected Ministers and Official Ministers. Why are we being called upon to pretend that nothing ever happened and go on in this mode? The Opposition has not given us an answer for that. That is the issue. What does the Opposition think we should talk to him about? That really has not been said. Is it that he should continue or is that he should go? If it is that he should go, then why are they not saying yes he should go. They could say that to the Baroness, they could say that to Mr. Hendry, they could say that to His Excellency the Governor. That should be the only song any of us are singing.

Madam Speaker, I know this Censure Motion cannot remove the Attorney General; I know it is purely symbolic. However, if the Opposition wants bipartisan working together, then there is no better way to do so than to vote for this Motion today.

[Inaudible comment by the Honourable Leader of Government Business.]

Hon. Gilbert A. McLean: We have no authority in this country—

[Inaudible comments by the Honourable Leader of Government Business]

Hon. Gilbert A. McLean: —truly except that which we have in here. The Constitution allows us to make laws. In here we are covered by privilege; in here we can express ourselves. This is the only place that we truly can say we have authority. As Ministers we have authority only to the extent that the Governor allows us (and the Constitution the way it stands). The Governor is the one who assigns which subjects we get. It lies to his authority to take those subjects away from us. So what kind of Constitution do we have? Those are some of the things that we all need to look at. However, today's Motion is purely symbolic. What it is saying to the Baroness and to the United Kingdom Government is, *'Please take note. All of us here in the*

place where we are truly empowered to say so have said we have lost confidence in the person that you say you have full confidence in, and we would like for him to go.'

We also know the Governor, in his discretion, appointed the Attorney General. We know he is paid emoluments from the revenue of this country. How much we do not know, it is one of the highest paid jobs, if not the highest, for I am reliably told that the salary is in the highest range, plus it attracts a 15% contracted officer's supplement and a 10% inducement allowance which is, in effect, 25% of the basic salary each month. As for what that contract says we do not have a clue, and if anyone wants to understand why that is so then they would turn to section 55(a) of the Constitution to understand why. That deal is made between the Governor and the Attorney General. We are not privileged to know it so we cannot do anything about that.

What I seriously wonder about in any organisation—and, indeed, I have some knowledge of management—is how you can get an employer with the authority to employ someone, but once that person is employed there is nothing you can do to un-employ him. There is something seriously wrong with that. You would have to set up a commission of at least three people and there is no time limit that says "within this period of time the commission must deliver its findings of misbehaviour or incompetence to fill the job", or whatever. It could go on who knows how long. That finding then would be what the Governor would have to follow. Something is seriously wrong with that situation and it needs to be

changed in the Constitution and that does not require independence.

There can be little doubt that as this time we and the British Government are in two different polarities. We are saying we do not have confidence in the Attorney General with good cause and they are saying, *'We do, you keep him'*. Indeed, with the Opposition speaking with Mr. Hendry or the Baroness, or whomever, I hope that someone will say, *'Can you not tell him he must resign? Can you not encourage him to resign? Will you please ask to see his contract to know if he resigned or what you paid for his contract or what it would cost the country?'* We do not have a clue about these things. The only thing that we have is the knowledge from the findings of the Chief Justice and the fact that it is an untenable situation to continue to work with the present Attorney General.

Madam Speaker, why should we, the Government, be out asking for a commission of inquiry? In fact, there are only two people who can bring it about: the Governor, or the Chief Justice and recommendations to the Governor. So how can we ask for a commission? The situation is so impossible that the public should be aware of that. Let us say that we decided

we would bring a paper to Executive Council which would normally not come from an Elected Minister; it would most likely come from the Honourable Chief Secretary. If we got bold enough and said we were going to write a paper and set out all the good reasons, does the public know that even to get the paper before the Executive Council the Governor has to say yes?

Hon. W. McKeeva Bush: That is true.

Hon. Gilbert A. McLean: We do not have the authority to put any paper before Executive Council unless the Governor says it can come. If he says it cannot, it cannot, and that is it. Yet we have one good fortune. Even under the poor Constitution level we enjoy here, as we have done we could convene a meeting of this House to debate this matter and vote thereon. The reason why we are fortunate in this regard is that there is something called "separation of powers" and we do have a little of that. May I quote from *Basic Political Concept*, Second Edition by Allan Renrick and Ian Swinbourn?

The Speaker: Please proceed.

Hon. Gilbert A. McLean: On page 35, The Separation of Powers. "The independence of the judiciary and hence the rule of law is helped by the separation of powers. All political systems need to perform three basic tasks to operate effectively. Therefore, there need to be three arms of government: the Legislature, Executive and Judiciary. The Legislature creates laws. [In Britain this is the task of Parliament; in Cayman it is the Legislative Assembly.] The Executive puts the law into effect. [In Britain this is the task of the government; also in Cayman it is that way.] The Judiciary judges in cases of dispute or where the law has possibly been broken. In Britain this is the function of the court system." We are fortunate, Madam Speaker, that we have that here too.

Madam Speaker, what I think has been the most upsetting thing to this country on a whole is to think of the near miss where our judicial process could have been perverted beyond our wildest imaginations. From the time I was a young boy, I can recall that there was faith and belief in the judicial system (the Courts) in Cayman. The reason why the judges earn some of the highest salaries in the Cayman Islands—in fact, I think they are the highest—is because we want to recognise that judges are paid at a level that money could not be an inducement in any way, shape or form. They are covered in that regard and we afford them (the judiciary) the respect they deserve from this Legislative Assembly, they being one of the crucial three arms of government.

Madam Speaker, another concern of ours—and indeed the Opposition Member spoke about it—is

the situation involving Brian Gibbs. He was the head of the unit that investigates for and on behalf of our financial services in these Islands. He, as the head of that agency, destroyed, withheld and altered evidence, and the Court found that it was with the idea of misleading the Court, not giving the Court all of the evidence and letting the Court decide *'This is appropriate, that is not appropriate. I will allow this and I will disallow this'*. Gibbs took it upon himself.

The other shocking part is that an agency of the United Kingdom was intercepting communications via Brian Gibbs and was paying people in one of the banks to give him confidential information.

The Speaker: Honourable Minister, is this an appropriate time for the luncheon break?

Hon. Gilbert A. McLean: It would be fine, Madam Speaker.

Hon. W. McKeeva Bush: Yeah, I guess I could eat.

The Speaker: We will now suspend for lunch and resume at 2 pm.

Proceedings suspended at 12.47 pm

Proceedings resumed at 2.06 pm

Hon. Gilbert A. McLean: (Inaudible) Madam Speaker, the idea of intelligence service and covert operations and so on is not that far fetched or any kind of Star Wars type of thing. What came through to us as such a major surprise was that the British Government, through MI6, seemed to think they needed to engage that service here in the Cayman Islands. The information which was being gathered here was going back to the United Kingdom Government and there was a play between the Secret Intelligence Service (SIS) and Brian Gibbs, who was a civil servant working supposedly for the Cayman Islands Government. The whole scenario brings us to a point that there is concern among us who live in this Island and the people who do business here. The question then is how much of this has been going on, who might be in jeopardy, is it going to stop and when is it going to stop? It is now for the Government to enforce provisions to ensure that even if there are covert actions in this country involving, perhaps, money laundering, it all stays within the ambit of the law. That is our grave concern. Of course, this will not change by sitting down and saying nothing. Why should we expect any visiting official, including Ministers and, specifically, Baroness Amos to come to Cayman to fix that here for us? We are talking about something that is affecting the Cayman Islands, that is within the Cayman Islands and we, the elected representatives of the people, are supposed to do something about it. We cannot do that

by saying nothing, as has been suggested by the Opposition spokesman.

Madam Speaker, the matter which extends on with the Attorney General is that he was the person ultimately in charge of the prosecution of the bank or the persons who worked in the bank. No one is saying that there will not be now and in the future persons who will face the Courts charged with misbehaviour or illegal activities, but the point is that anytime anyone, be it foreign or Caymanian, go before our Courts we all need to feel that justice is prevailing and that no one, including the Police Force or any special force, is perverting the course of justice. I disagree with the Second Elected Member for George Town that there is any British bashing unless he knows about something that the rest of us do not know anything about. I have not heard any such thing. If there have been some strong terms or language of statement used, it is out of outrage for what has occurred. Indeed, many people have said, *'How do you allow this person to leave the Island? If it was anyone else they would be arrested and put in jail'*. There is much to be said about that line of argument, many of us believe. However, as for the British bashing, I do not know if it is coming via that Honourable Member, but certainly I know of no one associated with the Government who is doing or saying any such thing. The point that has been made repeatedly, and I would wish to make is that our Courts must be kept and held in the high esteem that we hold them in and that when anyone is charged and goes before the Court they can feel that they are going to get a fair trial. No one is going to destroy, alter or withhold evidence which could mean that an honest person could go to prison or worse.

Madam Speaker, the situation we are discussing is whether our present Attorney General should continue in his post when everyone in the country has lost confidence in him. It has nothing to do with the wonderings and questions about independence which were raised. That is nonsensical to the situation. If we talk about the Constitution, then indeed I would momentarily agree with the speaker from the Opposition when he says that we need to look at the section of the law under which the Attorney General is appointed and make it more realistic. We need to make it a situation where anyone who might fill that post, while understanding that security of tenure is necessary for the stability of that office and of the Constitution and the government, it is not a situation where when he or she enters that office they are there forever and virtually one would have to turn the world upside down for him or her to be removed from that office.

If we are talking about other matters relating to the running of the Government we need to look at making amendments in the Constitution where the elected representatives of the people can have the authority to respond to the demands and the desires of the people who elected them to a much greater ex-

tent. Whether it is this Government or the one before or one to come, the expectations of the people are much higher than the Constitution allows its Elected Members to perform or to have authority to act with.

Madam Speaker, the case has been completely laid out, the legal arguments and what occurred by the Minister for Tourism, Leader of Government Business, and I will not attempt to repeat what he has said. On one hand, the Opposition argues the Government has totally mismanaged this situation and it is wrong to be here, yet they say they will vote for the Motion. One seems to contradict the other. I am glad that they do because, ultimately, all it is about is to show unanimity on this particular issue. What do we do to convince the Baroness when she comes that it is right and proper and it is for peace, order and good government that the Attorney General should be removed? I personally am more than willing to hear from the Opposition, or anyone else, but according to what we are hearing now, the position is, *'He is our Attorney General, we have full confidence in him and he stays'*. So someone please give me an answer. We will surely not achieve anything by saying nothing or doing nothing and that is where the situation remains. As for the oblique suggestions that if we do not get this matter resolved they are going to up and suspend this Constitution, I think it is reckless to even suggest that. The shock that would unjustly bring to this country is even too much to imagine and it would be without cause. I have to believe now and always the future of this country and how its people cannot be hinged on one individual. I do not care who that individual is.

Madam Speaker, I think that I have covered the areas I thought appropriate, and I certainly will support this Motion where I can symbolically say in the only place where I have some real authority that yes, I have lost confidence in the Attorney General. Hopefully he will resign or he will do as the Opposition has been calling for: retire. Those two things are different. One can resign without retiring, but I notice they have been saying he should retire. I do not know who will persuade him in that direction or that the people who see him as someone who absolutely has their confidence will respect the views of the people of these Cayman Islands and do something or say something to change this situation.

Madam Speaker, it will be of no use to have a Financial Reporting Unit if everyone doubts its integrity. It should be restructured; it should be reorganised where its functions are clearly defined in law that no Attorney General, or any Official for that matter, decides what it should be doing from day-to-day and it is shrouded in secrecy. If it is supposed to carry out a function including covert functions, state it! Everyone understands this happens in the world of today, it must. Some little things have to be done to hinder money laundering and drug smuggling and

money that might be going to terrorists. It has to be done, so let us state it. Openness and transparency helps everybody. Everybody who wants to invest here will know that this unit does this and you may expect that, and if someone slips through the cracks, he knows that if that unit comes up on them they are in big trouble. You just do not fix it by changing faces and places. I think in any restructuring we need to be very careful that persons who, perhaps, know the shadows of the former head do not continue to perpetuate those things which we want to stop.

I firmly believe that one thing that has to be done is to put Police under the supervision and command of Police, namely the Commissioner of Police. There is a prosecutorial part to this whole deal and that needs to be with the right person, whether it is the Attorney General, the director of public prosecutions, or whatever. Then there is also the reporting function where information is given to another jurisdiction in assisting them towards resolving crime. We have to clearly define that in law so that everyone knows, and this House does not have to come back here like it has in the past two years (like in Finance Committee, et cetera) and invest hours. I will say this about the Opposition: this particular part of it they have been unrelenting in questioning, and obviously there were grounds for real suspicion. It has been proven now. Quite honestly, if we have to be spied upon it has to be done with a little more finesse.

[Laughter]

Hon. Gilbert A. McLean: At least make us feel good about it and do not let it come with a shock like this where it is something that could be perverting our legal system simply to cover up the fact that this was happening. We need to talk about this. Everybody needs to understand this and the British Government needs to understand this is how we feel about it. His Excellency the Governor, the Queen's representative here, needs to understand how we feel about it in that we are not blinded. We are as sophisticated in thinking and understand as much as any people in any other developed and industrialised country. We understand these things but it has to be done in the right way.

If the United Kingdom, like it says in the White Paper, wants us to legislate and we have been legislating to cover all of these areas of money laundering, anti-terrorism and so on, we have led the way. If they say yes, law and order must prevail, then, Madam Speaker, they need not just show the way, they need to lead the way and then we can both be happy—the British Government and the Cayman Islands, these British Overseas Territories.

Thank you.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak?

The Member for the district of East End.

Mr. V. Arden McLean: Madam Speaker, thank you.

Before I get into the meat of my debate, I think it is absolutely necessary for the listening public, and obviously the Members of the United Democratic Party (UDP), that I reiterate the position of the People's Progressive Movement (PPM) and the Parliamentary Opposition. Obviously, it appears like the UDP have not been listening to what the PPM have been saying, that is, we all agree that the Attorney General's tenure in this country has come to an end. We made that abundantly clear. Whether it is through his resignation or his retirement he has to go. The Cayman Islands will be a very inhospitable place for the Attorney General, the Honourable Ballantyne, from hereon in.

Since the Minister for Health started with a quote from Shakespeare, please allow me, Madam Speaker, to also quote Golda Maier, the founder of the Republic of Israel when she said . . .

The Speaker: Please proceed.

Mr. V. Arden McLean: "You cannot shake hands with a clenched fist, neither can you negotiate with a clenched fist."

I would also say to the current Attorney General, as Theodore Roosevelt said, "No man is above the law and no man below it."

To the Leader of Government Business I would say "A pint of sweat will save a gallon of blood." I think it was George S. Patton who said that.

I mention those to say that while both parties agree that the Attorney General needs to vacate the office, even though we have the same goal in mind we obviously look at reaching that goal differently. I think that is the basic difference between the position that the UDP and the PPM have taken thus far. The Government said that the PPM made the first statement and they had to catch up, so to speak. That may be true, but certainly I believe that the Government could have notified the Opposition of the position much earlier and come to some agreement as to how we would all handle the situation.

I do not believe that there is anyone in this country who should want the Attorney General to vacate his office as a result of the debacle that we have ourselves in with the Euro Bank trial more than Members of the Opposition, particularly me. I recall my earliest confrontation with the Attorney General. Shortly after being elected to this Honourable House, I questioned the Attorney General in regard to his responsibility for the law school and he was extremely defensive. I did not give up my questioning. Over the last eighteen months or thereabouts, I, like the Minister for Health has just said, had been relentless in my questioning on the FRU. I also questioned the former Gov-

error. I take note, Madam Speaker, of your ruling and bringing to our attention the relevant Standing Order 35(7) earlier in this debate, but that did not say anything about former governors, it said 'Governor'. I take that to mean the current Governor. Thank you, Madam Speaker.

If this country faces problems today with that Attorney General Ballantyne, then it must be laid squarely on the shoulders of the former Governor Smith. He, in particular,—but all the others too—knew what was going on in our country. I have unedited copies of *Hansards* from this Honourable House beginning December 2000 up until more recently, where during 2001 Members of the Back Bench, including the Minister for Health when he was Her Majesty's Loyal Opposition, questioned the Attorney General's authority over the FRU. The former Governor sent memos to this Honourable House as to how they (he and the Commissioner of Police and Mr. Ballantyne) would come to an agreement through a memorandum of understanding as to who would be responsible for the FRU. Madam Speaker, I note that . . .

The Speaker: Honourable Member, seeing that the Honourable Second Official Member has not resigned or retired, I would ask you to refer to him in that capacity.

Mr. V. Arden McLean: Thank you, Madam Speaker. I thought of that but . . .

[Laughter]

Mr. V. Arden McLean: Madam Speaker, I will do so from hereon in. I do apologise, but I suspect we will not see the Attorney General again, like Mr. Gibbs.

Hon. W. McKeever Bush: Yeah, I knew they knew something about it, you know?

Honourable Member of the House: See here now?

The Speaker: Order.

Mr. V. Arden McLean: Madam Speaker, that is my opinion. Before you ask me for evidence, I would like to say that I have no evidence to prove that.

[Inaudible interjection by Member of the House]

Mr. V. Arden McLean: As I was saying. . .

[Inaudible interjection by Member of the House]

Mr. V. Arden McLean: I personally question the loyalties of the former Governor to this country so much so that the Second Elected Member for Cayman Brac went on national TV and said that I was disrespectful

to the former Governor. I trust that good gentleman today sees the validity of my statements, suspicions, or whatever we choose to call them. I wish I could have told the Second Elected Member for Cayman Brac and others then the origin of my suspicions, but the nature of those suspicions were such that I could not disclose them.

The Attorney General, the Honourable Second Official Member in this Honourable House, I believe got caught up in a situation that existed before his arrival and before the former Governor's arrival as well. Nonetheless, they continued to perpetuate it, and then our beloved Gibbs, who I have been after for a long time—and he is no longer a public servant, as far as I know he has resigned—caused and is causing this country grief and lots of it. If I never see his face again that is fine by me, and if I do I trust that it is in a place where there is an investigation going on. So that is our position in case the UDP did not understand when it comes to the Attorney General, Mr. Gibbs and the former Governor as well.

Madam Speaker, the disaster that this country saw with the Euro Bank trial has not only brought into question the rule of law in our country and who investigates offences in this country, but it has also brought into focus the individuals who hold the office of Attorney General. It is not so much the office; it is the individual who holds that office. Since being here I recall that on many occasions in this Honourable House I have called for the removal of the prosecution powers from the Attorney General's office. In November, prior to the constitutional talks in England, when the Honourable Second Official Member brought The Public Management and Finance Bill back to this Honourable House, I stood here in front of the Second Official Member and said that my position, whenever we go to England, would be to make sure I put forward a position of the creation of a director of public prosecution, a DPP office. Madam Speaker, I think we all did that and hopefully that will happen. I said it then and I say it now: the Attorney General had too many hats to wear. It is impossible for one man in that position in this country to have so many hats with such authority.

The prosecution of Euro Bank and its employees should have been the Solicitor General's job. However, in the Attorney General's zeal for something (I do not know whether it is promotion within the fraternity or whatever) he decides that he is going to prosecute and be right up front. Now, personally (and I am no lawyer) I think there is a conflict. You cannot be responsible to the Government of this country and then go out and prosecute every person under the sun, or only pick those who you believe will bring you prominence in your profession. Well, I have heard that *your sins will find you out* and it appears that his have found him out. The whole legal profession in this country has now called for his removal from office.

Personally, I have absolutely nothing against the Second Official Member, but I do have a problem when the Second Official Member, in his capacity as the Attorney General, prosecutes in our Courts. We talk about the separation of powers; the separation of powers lies in there too. His job should be to assist the Executive branch of this country in advising legally on the running of the country. Leave the Solicitor General to his job! In November I questioned the reason why those responsibilities were not passed on to the Solicitor General's office. These should have been passed over to the Solicitor General's office a long time ago! Of course, in 1993 our Constitution was amended to allow the Attorney General more powers, and it is my opinion that at the time that too was personally done to get more power. Well, power has brought one of the power-hungry people to the destruction of his profession. There will be a lesson learned from this one.

I believe when we had the local summit in the Cayman Islands between the UDP and the PPM, prior to the constitutional talks in England, we all agreed at that time that the Attorney General should be appointed by the Governor but on advice of the Chief Minister. I still stand by that. Obviously, when we went to England that was somewhat muddled but I await the draft. Now we understand why that was proposed. We need to reach a position in our country where the Attorney General can be trusted by the Cabinet, whatever we want to call it at such time when the new Constitution comes into place. The person who is appointed on the advice of the Chief Minister will know that he will be advising the government for at least four years. He does not know what is going to happen after that, but that is the best way to have that position held by any individual.

It is time we look within the Caribbean because they understand us; they understand the uniqueness of our Island life and our people. Even though we are far apart in a lot of our political ideologies, at least we get the feel that our people within the Caribbean understand us and we understand them. I am not trying to malign anyone English or Scottish, but it is kind of far for them to come to understand how we operate. You have to live in this country for a rather lengthy time to understand how we feel as a people.

Madam Speaker, may I just turn to the press statement made by the Governor on behalf of Her Majesty's Government and talk about the feelings of our people and what I know my people as Caymanians are capable of doing? I believe it is safe to say that we were all incensed by that statement. As I said then and will say again, in my short time here on earth—to some people it is all relative, to me it is short—I have seen my Caymanian people get upset over political decisions in this country. I remember in the late 60s and early 70s during the Benson and the

Farrington and the Warren Connolly tenures one specific instance where they were legislating that you could not take sand off the beach or only a certain amount. Immediately this country became enraged because it was a tradition to take sand off the beach to beautify our yards during Christmas, in particular. It is still done in some places within the three Islands. The people of this country went to the street and demonstrated against that government. Then on 8th November 2001 I saw the so-called political coup that was orchestrated. People came to the street, but I did not see them go on with any violence. Nobody's safety was in question, thus I had some serious concerns about the statement that Her Majesty's Government instructed her representative to issue.

This country, in its entirety, was called in for the removal of the Attorney General, and they wanted—and I believe they still do—to see Mr. Gibbs, as in their infinite wisdom they believe he has committed a crime and there needs to be an investigation for that. We can all say that but they want to see that done. I believe the people of this country want to see that, and if it is necessary to charge this individual for destroying evidence and not disclosing it, then that is what the people want. I do not believe that at any time either of those two gentlemen's safety was in question, but nevertheless the statement was issued.

Madam Speaker, while my colleagues and I agree to a great extent that this whole issue could have been handled differently, I believe that was one response to it and we had our response to it, but then Her Majesty's Government had their response which I did not agree with either. They will ask us to be calm and collected and go through dialogue, but then out of the other side of their mouth they are making these statements about how unsafe this country is. We had just, on the 13th of January, had one individual putting this country on the brink of toppling over financially, then we are going to hear statements about whether or not the Cayman Islands is safe, and that is why we are getting over a million tourists here each year? Is it because it is so safe? Then to add insult to injury it comes from the highest office in the land. Suppose the rest of the countries in this world where we have been getting our tourists from had issued an advisory against travelling to this country. That is a serious matter; the real two pillars of our economy would have been in jeopardy. That is where my concerns stem from, Madam Speaker.

On the other side of the coin, I urge all of us to be extremely cautious on the road we take to reach our goals because we can wind up making statements that will do the same thing. We have to be extremely careful with this matter. We have lost confidence in the Attorney General; we have lost confidence in Mr. Gibbs. Yes, they have to go in the interest of our country. We cannot afford to have two people holding our country ransom. No, Madam Speaker!

Our position also is the system. We need to get to the bottom of the system. We need to ensure that it is cleansed. In other countries there is cleansing going on all the time. In some of this cleansing we will find out that there is going to be some blood letting, but let us cleanse our country once and for all. Let us not be afraid of it.

Remember, Madam Speaker, while the UDP Government will talk about us politicking and we will talk about them politicking, Her Majesty's Government is politicking too, you know? They are politicians too and they are going to politic their position also! That is how this works. So when I sit down someone from the UDP is going to get up and politic on me and then I am going to politic back on them. This is the House of politics; that is how this works.

[Inaudible interjections from Members of the House]

Hon. V. Arden McLean: Then the House of Commons has their politics too and their Attorney General's appointment is political. That is what it is. It is extremely political and the UDP chairman of their board is political too. That is how it works. Then when we take over for the UDP it will be political too.

[Laughter and inaudible comments from Members of the House]

The Speaker: Is that your opinion, Honourable Member for East End, as to the political appointments?

Mr. V. Arden McLean: Oh, yes. That is my opinion on how politics work, Madam Speaker.

[Inaudible comments from Members of the House]

Hon. V. Arden McLean: When I talk about the system being investigated, revamped and cleansed, we must not be afraid of that. Those closets that are filled to the brim with dirty laundry let us clean them out now. Let us get it all over with and start all over again, regardless of whose blood comes as a result. I have no worries.

To say that I am glad to see Mr. Gibbs gone would really be an understatement. Long before this came about I wanted him gone and that is public record.

Everyone knows that I had no use for him. We need to see where the rest of those moles are and get rid of them too. That is why I stand by the PPM's position that we need to have a commission of inquiry. Let us clean out some people one time and be done with them in the interest of our country. If in the interest of our country we are standing up and saying the Attorney General has to go, then whoever else has to go let us get rid of them now.

[Inaudible interjections from Members of the House]

Hon. V. Arden McLean: First of all, the controversy over the FRU continues. For one and a half years we have been asking who is in charge and then, all of a sudden, the fiasco hit. The newspapers report that it is a young gentleman from Cayman and then the next newspaper counteracts that and says it is another gentleman who is granted Cayman status. Within a week there are three pictures slashed across the front of the newspaper. So it continues. I am going to carry it a little further, Madam Speaker. His Excellency the Governor, on behalf of Her Majesty's Government, politically appoints the third individual. Let us find out where this third individual came from. It is my understanding—and you know how I am for getting this information—that this gentleman was a Constable in our Police Force and he resigned to become a civil servant so that he could go into the FRU. Now we have a situation where one of the prodigies of Mr. Gibbs is now head of the FRU again. We need an investigation into this thing! Why do we think the young, successful career-oriented Police Officers who are Caymanian in our Police Force have such conflict with their foreign counterparts? We are leaving them behind as if they are second-class citizens. It has to stop.

It is also my understanding now, which is not official, that the Deputy Commissioner of Police, Mr. Braggs, will be Commissioner of Police in the not-too-distant future. This is what I hear on the street and I trust that is true. Probably then some other young Caymanians will come up. Well, if we cannot cleanse some of our positions in this country through an investigation, I trust that those young Caymanians who are successful can cleanse some of those positions too. Madam Speaker, the question is: what will be the outcome for these young officers who have committed their entire life to the rule of law? Where are they going? What is the purpose of committing themselves to a life-long service to this country when a few years ago someone blotched a trial, cost this country millions, almost bringing our financial industry to the ground and is now being commended by Her Majesty's Government?

[Inaudible interjections by Members of the House]

Hon. V. Arden McLean: Madam Speaker, I am extremely concerned but I believe that we also have to look at the system. It is the system; the way we appoint the Attorney General we need to somehow ensure that this new draft Constitution we hopefully receive shortly will make some provisions for us to have more control over who occupies that office. Too many times we import people—and I am not saying that if a Caymanian was in these positions . . .

The Speaker: Order.

Mr. V. Arden McLean: Thank you, Madam Speaker. I am not saying that if a Caymanian was there the Caymanian could not be coerced into doing some of these things either. The fact is that it is most unlikely that the Caymanian will bow because he has loyalties to the country. He knows where his children are; he knows where his family resides; he knows he has to stay here; he knows it all. I am not advocating that because we are Caymanians we have to have the position. No. I have heard commendation on many of the young Caymanian Policemen in our Police Force and, in particular, I have heard so many good things said about the young Caymanians in the FRU. I am not advocating cleansing and just throwing them out because in their position you know they were not privy to all the shenanigans that were going on (the wire tapping and the like) that the former Governor allowed Brain Gibbs to do. There is no way anyone is going to make me believe that those 'lowly' Caymanians—that is how they like to call them—would be privy to that information. The people who were doing it need to pay the price. How do we arrive at that price, Madam Speaker? The UDP sees it differently from the PPM. I just said you cannot shake hands with a clenched fist.

I have seen the Attorney General, the Second Official Member, stand in this Honourable House and become extremely defensive. I have seen him defend his position which one must respect. At all times I believe we must take our own position. I cannot, in fairness, ask that the Attorney General not be removed, even though I have the utmost respect for him. There comes a time when you must be responsible for your position. That time has come and the Attorney General, the Second Official Member, must step up to the plate.

It is unfortunate that the Euro Bank trial reached the position where it had to be aborted, but the one person in this country I believe we have to thank for that is the Chief Justice. Somehow I get this feeling that we should all be elated that he is who he is, and I say no more on that one. Anyone can take that any way they want.

Madam Speaker I do not want to take all the time from the other Members. However, in closing I would respectfully say to the Leader of Government Business and the UDP Government that the manner in which this whole fiasco has unfolded does not serve anyone any good. The lack of communication with the Opposition has thus far not been in the best interest of the Opposition, taken that strong position behind whatever the Government but respecting the position. As I understand it, I think the Minister for Tourism alluded to other information that they are aware of and he said that was for another time. That seriously hampers the Opposition in how it can address issues of national importance. I believe, and I have always contended that one can only make a decision based on the information he has available to him. So said, we

have made our decisions based on the information we have had before us. If the UDP Government has additional information in the interest of this country, then I appeal to them to share it, get together with the Opposition, sit down with the information and then we can make a decision that is of mutual respect and in the best interest of our county instead of us saying in public meetings that if we are like the Attorney General we should go to England with him too. The two people in this country that should never be said about are me and the Second Elected Member for George Town. I think all those Members on that side of this Honourable House know our position with regard to that. I was just there for five days and that was no enjoyment of mine. So, Madam Speaker, I believe that a bipartisan agreement needs to be reached between the UDP and the PPM.

The Minister for Tourism said that it was a sad day in our country when the Euro Bank trial was aborted. I agree with him because the implications of the hiding of evidence, the ultimate destruction and then the trial coming to an abrupt end send messages that we do not need to be sending out of our country at this time. Shortly after all this started, I was told that the headlines in Bahrain were carrying the story. That is quite a distance away. The last time I was there it was many moons ago.

A friend of mine gave me a demonstration a few days ago and he asked me to hold the phone and judge the weight. When I judged the weight he said that it was not the true weight. The longer you hold it up the heavier it becomes. The longer you hold on to something the heavier it becomes and many of us can relate to that, particularly those who farm. The first thing that came to my mind was going into the grounds with my father and loading the baskets on my head with the strap. I was quite strong as soon as I put it on for the first couple of minutes, but after I had to walk three miles it was the same weight but it was much heavier. The longer we hold it the heavier it becomes and the worse it will be for our country.

I have no alternative but to support the lack of confidence in the Attorney General. I lost confidence in him long before the Leader of Government Business did. However, it has now come to a head and I trust some lessons have been learned. We just need to come together, resolve this issue in a bipartisan way, move our country on and try to repair the damage that has been done internationally and locally. We all know the frenzy both the local and international news media get into. Whether it is locally or internationally, it is bad news that sells. If you do not have bad news your newspapers are left on the counters and that is a fact of life. A nice little piece of juicy news will get everyone out to get a newspaper. That is their job. We need to close them down also. Do not let them have anymore bad news on the Euro Bank trial.

Let them find something else to print on the front page.

Therefore, Madam Speaker, I urge the Government for us to come together to deal with this in a professional manner, see if we can get another Attorney General in place, move on with our country and get it back on the footing that it has enjoyed for a very long time.

I thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

The Second Elected Member for the district of West Bay.

Mr. Rolston M. Anglin: Thank you, Madam Speaker. If the People's Progressive Movement sought to have the Elected Member for East End clear our minds as to their position, I must say that I am all the more confused. I must deal with what has been said before I get on with some serious business in regards specifically to this Motion. I think it is important, as a responsible Elected Member, that I understand and that the public understands what people say. I think one thing that is critical to good leadership is clear, unambiguous statements, not half-cocked statements coming one way and then another one going three quarters the other way.

Madam Speaker, the Second Elected Member for George Town took great pains to talk about the Government's mishandling of this situation. He also took great pains to talk about hysteria. If what I just heard from the Elected Member for East End is not hysteria at its best, then I do not know the meaning of hysteria. I would say to the Second Elected Member for George Town that if he is going to be a leader of the PPM he had better make sure he knows what his Members are going to get up and say and how they are going to say it because he talked about anti-British rhetoric. No one in their wildest dreams would have dreamt that we would have heard here today what we have just heard, and they talk about the UDP. Yes, today this country has seen politics at its best. This was politics at its finest hour. This was Politicking 101 and the Second Elected Member for George Town and the Elected Member for East End both got an A+. In fact, if I could give them a higher grade I would, but I have never heard of a higher one.

Madam Speaker, I have heard of blood letting; I have heard of cleansing; I have heard of saying 'What would happen if I saw Mr. Gibbs, and 'I hope he is on trial', but what if he is not on trial?' What is the Member for East End saying? You have to be clear about what you say. The Government has spoken twice and its position is very clear. I think the Government has demonstrated impeccable leadership, and certainly we have heard from the People's Progressive Movement a feeble attempt to try and steal

momentum because of one thing: they simply feel as though the people are on the Government's side on this issue. That is what this noise is all about, Madam Speaker. The noise is about the fact that the People's Progressive Movement does not like their political position on this issue. It is all about personalities too. The Second Elected Member for George Town has the audacity to talk about personality and personality politics. Who demonstrates that better than him in this Honourable House?

It is obvious, in my opinion, the lowly esteem that he holds Members on this side with. It is obvious that we see a group of individuals seeking political power. The Member for East End alluded to that because he is already talking about when they take over and how it will be their political appointments to boards. That is all this is about. Madam Speaker. They have no leadership; theirs is a leadership vacuum. All I heard was one Member get up and criticise, criticise, criticise and talk about diplomacy, negotiation and all these good, fancy words. Then I heard a tirade beyond my wildest imagination follow it. All I heard then was fire and brimstone. All I heard then was mass hysteria. I quote, "The Cayman Islands will be a very inhospitable place for the Attorney General, the Honourable Ballantyne, from hereon in." What does the Elected Member for East End mean by "inhospitable place"?

Madam Speaker, we see clearly now what is at play here, and let me backtrack because I have to clarify certain things. Again, the People's Progressive Movement not only needs to follow the Government on this one and the issues as far as I am concerned, but they also need us to remind them of the facts. I heard the Elected Member for East End say, well, it is really the Government not speaking to them and holding council with them that created the problem. I might remind him and this country that on 7th January the Chief Justice was in Court delivering these findings of fact and getting the Attorney General to agree that no further evidence would be brought and that these persons would not be tried again in the Euro Bank case.

The United Democratic Party got a copy of the report and we analysed it that evening, we analysed it on the 8th and on the morning of the 9th, which was a Thursday, we called a meeting amongst ourselves. During that meeting we got a call from the press saying that the People's Progressive Movement has a pre-recorded statement. 'What is the Government's position because we feel that if one position is going out the Government should have an opportunity to put out their position as well'. So, Madam Speaker, it would seem to me that well before any negotiations were going to happen between ourselves and the People's Progressive Movement they made a statement. They obviously read the same findings of fact that we read. I presume they would have had the guts to call the Governor and at least get his position as we

did in regards to the Attorney General and then make their statement. That is the evidence we had before us, we had findings of fact. So to say that all we need now is a plea to resolve this issue in a bipartisan way would seem to run contrary to the earlier statement.

Now, Madam Speaker, there seems to be a real problem with letting the country believe that the United Democratic Party has information, and once we give it to the People's Progressive Movement they are going to come onboard and then we are going to solve this problem. Nothing could be further from the truth. The Foreign and Commonwealth Office, along with their representative here, His Excellency the Governor and the Attorney General are two very important players in this whole affair. I say to the Elected Member for East End that going forward is not going to resolve this issue. What will resolve this issue is if everyone had come here and said their peace and how they felt and then we took the vote, but no. No. In his infinite wisdom—that is my opinion at least—the Second Elected Member for George Town came to this House with his usual tirade, his usual rhetoric, his usual stance which is to do nothing but attack personally the Leader of Government Business. That is his job. I sit here every day and that is all he ever does.

Madam Speaker, I have to now look back and reflect on the *Caymanian Compass* and what the Second Elected Member for George Town said. He said that this Motion had no practical effect and, in fact, that is exactly what was said in the *Caymanian Compass*. Madam Speaker, I crave your indulgence to remind this country and to remind the Second Elected Member for George Town that until the people's representatives come to this Legislative Assembly and speak we have not officially acted on the people's behalf. Representative government means coming in this House and representing what you believe to be the views and the best interest for the people of this Island. The Government feels it very important that long after our time, when people read about this debacle, it be unequivocally clear what the people felt. How do you record that? You record that by coming here in this Legislative Assembly and debating the issue. How sad it is that his debate will actually be in history. I say that with the humblest of respect because when our children and grandchildren come and read these *Hansards* with all that venom they will have to wonder. It would be inevitable for them to wonder what could have been this person's state of mind and what could have been this person's motives. The pursuit of power at all costs is the motive.

You see, Madam Speaker, the Government took a firm stand. The Government understands that, ultimately, there will be a final set of negotiations that will resolve this matter. However, we were not going to go along with some concocted plan that we would meet with the Opposition and then a couple of us would jump on a plane headed to the United Kingdom

to try to settle this matter. We believe that it is very important at this very particular juncture in our history that the people of these Islands stand up for what is right. Madam Speaker, evil is made to prevail when good men stand by idly. It is incumbent upon us to voice our opinion on this, to express the outrage on behalf of the people of this country. What more appropriate venue than this Legislative Assembly?

I think it is also noteworthy that the People's Progressive Movement has not even had a public meeting on this issue. I think it is also noteworthy for us to remember how the PPM behaves when it is convenient to them. We have had instances in this House, and even today we saw it again from the Second Elected Member for George Town, where they come to this House and do not even have enough dignity or sense of pride of where this place is to respect the Chair. We have had them call public meetings on frivolous issues like that.

The Speaker: Is that your opinion, Honourable Member?

Mr. Rolston M. Anglin: I am sorry, Madam Speaker. In my humble opinion, they can have public meetings when they feel as though they can whip up the people on their side; but when it is not an issue where they think they can beat the Government and they can turn the people against the Government, then they sit quiet. Madam Speaker, how else do you explain the most important issue to probably come before this country in the last 20 years and the Opposition does not have a public meeting? Yet they talk about openness and transparency in government and representative government. You see, Madam Speaker, God has a mysterious way of bringing to light everything, and it is quite evident with the developments over the last nine months in this country that he is doing just that. When the Opposition feels as though they can get political mileage and gain, they jump up and down on the streets with their cronies in wheelbarrows so potential investors see their petition drives and all sorts of things. Once they feel as though it is political advantage they will do it. Interest in country is absolutely, positively absent from their agenda. Now I cannot speak for all the Members of the People's Progressive Movement, but I can specifically lay that on the elected representatives of the People's Progressive Movement because it is clear. I have just said it and I have just shown the evidence for it.

This is not an opinion, Madam Speaker, it is a fact. It is a fact that when the constitutional debate was going on and when you could rile the people up and put them out in wheelbarrows and get the petitions started and believe that you can get an advantage over the Government, you go out and have meeting after meeting. Just because the Government showed good leadership and the people automati-

cally, through a sense of decency, honour and national pride, acclimated to the position of the Government, then they sit by quietly like mice, playing games and say, 'Well, the Government is not really telling us what to do, the Government is not giving us all the information'. Madam Speaker, we had all the information they had, and they had all the information we had. In fact, I can stand here and say that until we had the joint meeting with Mr. Ian Hendry, Deputy Legal Counsel of the Foreign and Commonwealth Office, I and my colleagues on the Back Bench of the UDP did not meet with him. So if anyone was at a disadvantage it was us. The four of us did not have an opportunity to meet with him. He met with the Executive Council and then he met with the Parliamentary Opposition. However, I find it quite unusual, to say the least, that once we got in that meeting with Mr. Hendry and he put forward the notion that, 'Oh, no. We have to stop the shouting and we have to be quiet and behave ourselves so that we can really resolve this matter', the Opposition was quite happy to acclimate to that position. Why? Oh well, the Government will not be making any statements to garner anymore public support. That is how they would have looked at it, Madam Speaker.

So of course with their next statement they even used his words 'a shouting match'. I say to them that they could have at least been more original than to have used Mr. Hendry's same language 'a shouting match'. Does that sound like a Caymanian term? We call it a row, or at least where I come from that is what we call it. I never heard my parents telling me or anyone about any shouting match. Which shouting match? It is a row. That is what we were having with them, a row. You see, Madam Speaker, they were so intent on going along with anything that would stop what they perceived as the government's political momentum on this issue that they were willing to do it, even if it meant going along with the British.

Madam Speaker, we hear about insolence. Has the public outrage and the position of the UDP been insolence or standing up for what is right? A great travesty has been committed against the people of this country. Yes, we are going to inevitably have to come down to a very simple formula whereby either the FCO withdraws Mr. David Ballantyne as the Attorney General or Mr. David Ballantyne resigns as Attorney General. To believe somehow that we should sit idly and quietly by and simply try to enter into these negotiations as we have heard, in my humble opinion, leaves no room for the healing that is necessary for the people of this country.

The people of this country are outraged, they are hurt and torn. Every one of us feels that sense, irrespective of any of our positions and opinions before the collapse of this trial. I do not believe any of us would have believed if anyone had told us Her Majesty's Government was carrying on clandestine op-

erations in our financial services industry. So there is as a key part of the healing process that we need to go through as a people before we start saying we need to mend all these fences and all this good stuff. Who broke the fence? The British Government broke the fence. That is not to say that we the Government look at that and say, 'Well, they broke the fence so we can do and say anything.' No, I think if you look at what the Government has said and the statements we have made, they have shown leadership and calm. At the same time, they had to show passion because we were all outraged; the people were outraged. Certainly, when we spoke, and as I speak now, there is that vigour. However, Madam Speaker, to talk about the *system being cleansed* and *blood letting*, how do we clean this out? 'We need to do this regardless of whose blood is shed.' Yes, that is metaphorical language, but these are the words the Opposition used in their earlier contributions. Now, I want to remind them of something that is very important. As long as we are an Overseas Territory there will be certain hallmarks that will prevail. Number one, the United Kingdom Government will appoint the Attorney General. I think it is quite clear that both we and the Opposition have said that we would like to have more input in that. In fact, we went to the United Kingdom with the position that we wanted to have that appointment made on consultation with the Chief Minister in the future. They were not receptive to that idea but they seemed to be a bit more amenable to the idea that the Attorney General would be put in post at least on the advice of the Chief Minister. Fine, that would be a step in the right direction.

Again, we hear so much that makes no sense coming from the Opposition. We hear on one hand that that should be the case, that we need to stir our political advancement. Then we also hear, 'Oh, no! No! We do not want that political advancement now. That is good, but let us not do that now. We do not want that now. After Mr. David Ballantyne goes you bring whoever you want, do not do it on our advice now. You have to wait for 2004 because we think we are going to beat the UDP at the polls. We are going to be the government and we, in our infinite wisdom, can then choose the type of Attorney General that is best for this country. It cannot be done while there is the present Leader of Government and this Executive Council and these Back Bench Members. Oh, no! No! It is very good but do not ever do it now'.

[Laughter]

Mr. Rolston M. Anglin: Madam Speaker, I am confused even more now about the PPM's than I was when I came here this morning. It is obvious that the leadership of the PPM, namely the five elected representatives, do not know what their own position is, or they do not realise that there are grave inconsisten-

cies in their position. I am pointing them out and I hope it makes them better for it because, certainly, I conform to the notion that for all of us to be better then we are better for the country.

The UDP is about making sure that we have clear, concise direction. I heard the Second Elected Member for George Town say to the Leader of Government Business that this issue will not be solved by shouting and who can shout the loudest and all this good stuff. I need to remind the Second Elected Member for George Town that I did not hear the Leader of Government Business today, or ever in my life, shout any louder than I heard the Elected Member for East End shout. He needs to make sure that he keeps his guys on their side going along the same line that he has put out. It is obvious; he came out and said *'No British bashing'*, then we hear the next speaker from the PPM doing what, in my humble opinion, has been a lot of British bashing. He talked about the last Governor and said that it was obvious he was not on our side. He talked about their "beloved Gibbs" and that it is not so much the office of the Attorney General but the individual who occupies it. Now that is a twist. I thought it was the other way around. I thought, fundamentally, we were coming here to complain about the fact that we need more say in how the office is appointed and more say in making sure that we could get our type of appointment. Now, it is all personal.

I see in the paper where they say, "We will not associate ourselves or be party to vitriolic statements and personal attacks on the character of the Attorney General." That is a quote from the Caymanian Compass, dated 10th February 2003 (today). The headline says, "Stop Politicking Says PPM". Then I see the Elected Member for East End get up in this Honourable House and say that we all know how he and the Second Elected Member for George Town feels about the Attorney General. Then I also hear him saying that he hopes the next time he sees Mr. Brian Gibbs, if he ever sees him again in his life, that he is here facing some sort of charges. Madam Speaker, those are worrying inconsistencies, worrying statements. Ultimately, there will be people on the outside listening to what I am saying and will not realise why I am saying it so let me make it very clear.

The UDP Government has gone out and taken a clear, concise, unambiguous position on the Constitution and, in this case, the Attorney General and his removal from office. Everything that we have said jives with the other thing; it is all consistent. We have said that we want to get this matter behind us as quickly as possible. We are saying that we realise that this has caused uncertainties in the country. We realise all that. Now, the PPM has also come out and agreed that the country is hurting and we need to get it behind us, but they also want a commission of inquiry which is yet another inconsistency. How are we

going to get this matter behind us quickly, allow this country to move on, mend the fences with the British Government as they proclaimed, yet at the same time have a commission of inquiry that could drag on month after month, causing more and more lack of investor confidence and instability in the country? Is it that they are simply trying to bait the Government in?

I heard the Elected Member for East End say something profound here today. The longer you hold something up the heavier it gets, yet we want to hold this commission of inquiry up over all our heads for the next few months. This makes no sense. None! We are here to try and move this country forward, but we believe that we had to come here as the people's representatives and vote and show precisely how the people felt, so that 10 or 15 years from now when people read about this in history and they hear about it they can come to this Legislative Assembly or go to the National Archives (or hopefully by then go on our website) to see how the people's representatives felt. That is a true measure of how the country felt and how the citizens of this country feel. So we are not here wasting time, but the Second Elected Member for George Town seems to believe we are. He then also said that this exercise would do nothing more than strain their relations with the UK even more, and then he turned right around and said that he is going to support the motion. So he is going to support straining relations with the UK more? Do I understand this correctly? Sometimes, lowly, humble public servants like me have a difficult time following the persons in this country who have the monopoly on intelligence, and this is a case in point.

I also hear calls that young Caymanian Police Officers are languishing and not being able to rise to the top. Again I say that this sounds as though we need to act and act urgently as a Legislative Assembly. I have heard that they have been referred to as "those people". That is what the Elected Member for East End said. It sounds to me like this country needs to have a modernised Constitution put in place as quickly as possible so that we can start having more say in our affairs than we currently have. Yet no, we cannot have that because if we have that, according to the Opposition it will be under the watch of the UDP and you do not want that to happen because we are these big ogres and these bad people. That is what the PPM feels. Make us suffer unto these terrible situations; make us have these situations where we have no input on the Attorney General. Let us do that for another year or two, or whatever it is. Of course they will cutely say, *'That is why we wanted a referendum'*, but I will not get into that issue today. I think the country now realises the political game that was.

Madam Speaker, I can honestly say that the people who makes up the UDP, both elected and Official Members, strongly support the petition drive that has been started in this country by Ms. Isabell Giger in

regards to no confidence in the Attorney General. We implore everyone: go wherever you need to, but find a sheet and sign your name to that paper because come next week we need to be able to sit down with the Baroness and clearly show her how this country feels, not just Elected Members. We need to have a petition with thousands and thousands of signatures: *'Yes the UDP believes and supports this petition drive'*. This is the time that we need to send a clear message about who we are as Caymanians, or maybe some of us believe that we should be the puppets that Douglas Calder has referred to. If you do not believe that then I implore you to get out and sign the petition. We need to make a strong statement as Caymanians.

I beg your indulgence, Madam Speaker, but let us go back in history just a minute. Mr. Brian Gibbs was involved with numerous cases involving purported financial crime. There is one infamous case where a particular individual was prosecuted, it was overturned, the case was taken back to the Court of Appeal and referred on to the Privy Council and the Privy Council ruled on behalf of the defendant. At the end of the day it cost this country well over a million dollars, all because of a witch hunt by Mr. Brian Gibbs. Mr. Gibbs was given a medal, an award from the Queen. All this happened when he was in Cayman. Let me make this clear. All of this happened since this man has lived and worked in the Cayman Islands. After doing all this damage he was awarded by the Queen.

We, the UDP, believe that it is a time in our history when we need to stand up and be counted. What does it mean to stand up and be counted? Very simply, to let the British Government know of our outrage and dissatisfaction and that we want certain, fundamental things changed like the appointment of the Attorney General. We want a Financial Reporting Unit that is more accountable and transparent. We want investors to know that our reporting and investigating agencies are aware of the culture. Few to no people will put their money into a country if there is a question about that. That is the hallmark of financial stability. If you look at the United States', the United Kingdom's and Japan's reporting agencies they have stability in a body that is fair and knows how to analyse evidence and handle cases properly, which is of utmost importance.

So, Madam Speaker, we certainly believe that it is very important to have the Financial Reporting Unit restructured. In fact, it probably would not be out of order to have it renamed just so some of the stigma can be removed that is already there. We would hate to see a new regime come in and it would be like *putting new wine in old bottles*. We must have the restructuring of the Financial Reporting Unit, we must have an end to this saga with the Attorney General, but we believe that it is very important at this point in

our history that we show leadership, we stand up and be counted and we do not sit down and have injustices perpetrated upon us. Nowhere in the White Paper do I see the British Government telling its territories that we must sit down and take abuse from the British Government because that is what we are going to get and that is how the relationship works. I have never read that in the Partnership for Progress and Prosperity, the White Paper. So just because Elected Members take a stand that is for the right and the good, one that is an unequivocal voice that says we will not stand idly by and have these sorts of acts perpetrated upon us does not mean that we are mishandling a situation.

I also heard the Second Elected Member for George Town come out with some real scare tactics. If I did not know any better I would have thought I had seen the first bogeyman that my parents told me about when I was a little boy because I heard notions of independence being raised in this Honourable House when nothing could be further from the truth and nothing that the Government has said indicated that is what we are seeking. Besides, there is a well established methodology that is used by the British Government when it comes to independence. If you look at Bermuda they have been talking about independence for many years. What has to happen each time they talk about it? They take it to a referendum. Yes or no to the simple question: Do you want independence? To even bring it up shows a real lack of understanding of how the system works and how our constitutional arrangement with the United Kingdom works because the Government does not stand for it. However, even if a government in the future stands for it, that is independence and there is a well established way that you settle that question. The people ultimately decide because it is considered the most important issue for the people of a territory to voice their opinion on and make a decision about.

Madam Speaker, we have seen a series of events that started sometime last June and have caused all of us to truly question the Attorney General's office, how it functions and its duties. I certainly agree with the Opposition that there is a dire need to not have the Attorney General's office remaining as the chief prosecution officer in this country as well. The Government understands that and people talked about that a long time ago. That is not a new argument. Certainly, both sides of this current Legislative Assembly have taken it on with vigour and are unanimous in it, which should allow us to be able to resolve it this time around.

Madam Speaker, we also have findings of fact issued by the Honourable Chief Justice which prove the Government believes unequivocally, as outlined by the Leader of Government Business, that not only was there wrongdoing on the part of Mr. Brian Gibbs, but that the Honourable Attorney General should have

known what was going on. In our humble opinion, the Honourable Attorney General certainly did not display the level of professionalism that he should have which may have avoided us getting to this position. Those were his actions—or lack of action—and his decisions. Now the Elected Representatives have no confidence in him; the public at large has no confidence in him. Just about every professional organisation in this country have spoken about it and said that they have no confidence in him. It is very important to note that the Caymanian Bar Association, and the legal society as a whole, has voiced no confidence in the Attorney General. How could he, in a practical sense, be able to function and survive in a country as a lawyer where all his colleagues have said with one voice that they have no confidence in him?

We must have sensible dialogue with the Baroness Amos when she comes. I do not believe it serves anyone's interest, certainly not the people's interest, for the Government to stop saying what it has been saying. I think the Government needs to keep the pressure on, irrespective of what the Opposition has said in terms of the size of the Cayman Government as well as Cayman and the fact that we are territory versus the United Kingdom. That matters not to us, Madam Speaker, because lest they forget *David slew Goliath*. Just because we are a small country does not mean that we cannot win the battle, and this is an important battle for us. This is one that drives to the core of who we are and who we will be going forward. We must be able to come out of this as quickly as possible, to settle this issue and get it behind us, and the only way we can do this is for the man by the name of David Ballantyne to no longer be the Attorney General for the Cayman Islands. That is the one thing that everyone in this country agrees with and wants.

Madam Speaker, I believe the country sees clearly, and much clearer today, that the United Democratic Party offers the type of leadership that they desire and aspire to. When the waters are calm, even then you need good leadership, but it is so much easier. Yet when they are choppy, in fact, when they are downright rough and the seas are heavy and the swells are high and the pressure continues to wash on our shores, that is when you need men with backbone and character to stand up for this country.

This is our only country. This is the place that we call home, this is the place that we live in, this is our future and our survival and our children's future and survival that we are talking about. So it is very important, at this point in time, that we have a government that is not about to jump on a jet and whisk off to London and like mice look up to the giant sitting at the table and hope for a crumb to fall with the writing '*David Ballantyne will be removed*'. We had the type of men and leadership willing to go and make publicly known all that we knew, how we felt about it and demanded that justice be served. This is a time

for a speedy resolution and let me reiterate to the country: the call by the Elected Member for East End for the Government to "speak to Opposition and resolve this matter" is one that offers false hope because that will not solve this problem.

We sat in the ExCo room and his Excellency and Mr. Ian Hendry, Deputy Legal Counsel for the Foreign and Commonwealth Office, sat there and heard all 15 of us say with one voice David Ballantyne must go. We agreed at that point that the shouting must end and that we must all be good boys and not say anything more about the UK Government and what they have done to us. They turned right around and said, '*Oh well, the Honourable Attorney General, Mr. Ballantyne, must stay in the Cayman Islands because we still have confidence in him*'.

So, Madam Speaker, we believe with every fibre of our being that we have the right tact and we will continue to speak out on this issue because it is one of national importance that requires the Government to do what is in the best interest of these Islands. At this point in time we have to show that we demand to be a partner in the Partnership for Progress and Prosperity. We demand to be treated with some level of respect. We will never be treated as equals for we are not. We understand our constitutional relationship. Just because we are a territory does not mean that we cannot have an opinion and that we cannot voice it. We must voice it vigorously and sensibly. There is no hysteria on the Government side, and I think the listening public has heard today where the hysteria lies. There is no hysteria here. We are cool, we are calm and yes, we speak with vigour. It is important to do that sometimes because that tells people how you really feel.

Madam Speaker, I fully support not only this Motion but the bringing of this Motion. I fully support that all Members should have been provided the opportunity to come here and let history be able to paint an accurate picture and that all people would be represented. Certainly, that is our duty. We are in a representative style government and therefore we must represent the people.

I reiterate that the Government understands the urgency and the necessity, but the Government also understands that the people's voice must not be muted on a national issue. This is a national issue and the people's voices must be heard loud and clear. So I implore everyone in this country to find a copy of that petition and sign it because we must stand up. What a travesty it would be if in a few years' time we had the current Attorney General receiving some medal from the Queen in this country. It is time that Caymanians pay attention to what is going on in this country and have representatives who are willing and able to stand and lead in these types of unpopular and difficult issues. That is what has happened. The United Democratic Party has behaved rationally, sound, calm and in

the best interest of the people of this country. There was no politics; we got out and said what we knew and took a position. Just because the people believed in that position and had that same position themselves, we then have the Opposition calling it politics. Just because we have public meetings on this issue we hear politics, but we will defend ourselves and our names whenever anyone, be it the United Kingdom Government or the People's Progressive Movement, make statements that require a response. In this case we have had to battle statements coming from both fronts that seriously, in the first instance, try to undermine safety and stability in this country and, in the second instance, sought to be political and divisive. We, the United Democratic Party, stand united on this issue and we will vote yes.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister responsible for Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, in relation to this Motion I recognise that this is a difficult period in the history of the Cayman Islands. The relationship between the Cayman Islands and the United Kingdom, when it is really analysed, will show us that the Caymanian spirit of independence, self-reliance and self-worth places the Caymanians, sociologically and politically, in a position to say to most, including the United Kingdom, that where we are at today we got there because of our own toils and sacrifices. It is therefore hard to see that the interest we have in the Cayman Islands as a Government is being equated and labelled as disruptive and as bad management. When the Second Elected Member for George Town rises and attempts to devalue the role which the Leader of Government Business has played so far in this situation, and goes further to accuse the other Ministers of this Government of mismanaging our country's affairs, it only goes to show that the PPM could not come here today and discuss a Censure Motion without bringing politics into it.

The Leader of Government Business is always seen as one who takes to being political in some of the statements that he makes; but if we remember what he said today and we look at what the Second Elected Member said today, then we will notice that the Second Elected Member for George Town really went overboard. It was not called for. I say this because, in all sincerity, I think it would be best for us as a Parliament to use this chance of debate to pass a Motion that gives the message that we have used the highest, most sacred instrument in our country to declare, without any ambiguous meaning, that we lack confidence in the Attorney General's ability to safeguard the economic and judicial interest of the people of the Cayman Islands. No one could really say that

this act has no meaning, for those who record that statement in the history of this country will be judged years from now as having no confidence in their own dignity, sovereignty and right to, at this important time, determine what their destiny should be.

It is quite obvious to me that the relationship between the Cayman Islands and the United Kingdom could be equated to the relationship between a parent and a child. Yet even in that relationship there are certain legal safeguards which a child has when approaching his parents. That child cannot just be told to do this or to do that if that is conceived as being against the interest, welfare and human rights of the child. Even at that particular stage there would have to be the intervention of outside forces and authority to tell the parent they could not carry out actions against the welfare of the child.

Madam Speaker, we are at the brink of introducing a children's law in this country that will determine the relationship and safeguards the welfare of the child. That law is partly the result of the fact that the United Kingdom herself is interested in making sure that a child has rights: rights to protest, to maintain dignity and to seek recourse for injustices committed against him or her. How do we find ourselves saying that the politicisation of this issue has no usefulness when, in fact, it is only when people hear that a child is being abused that they have the possibility to look and say, *'What is happening here? Let us tell the relevant authorities that the child is being abused. Let us report about domestic violence so a more judicious authority can intervene and do something about it.'* If you go *hush hush* and do not say anything, there is no way that anyone can intervene on your behalf to ensure that your rights are preserved.

I think it is important to ask the question today how the United Kingdom will defend its position, not only in relationship to the Cayman Islands but in relationship to a world that becomes more conscious of the injustices to persons and countries that are less powerful. The fact that we have a legal relationship with the United Kingdom, a constitutional relationship which makes us subordinate, does not necessarily mean that it makes us impotent or puts us in a position where we can do or say nothing to protect our general interests when we they run contrary to the interests of the United Kingdom. We have tolerated our relationship, and because the relationship has not been disturbed up until this point with these types of issues does not mean that as we go on into the future we will not have difficulties as our moral and economic interests become separate from those of the United Kingdom. We have seen with regards to the issue on sexual morality in this country that the Cayman Islands people have different views from the United Kingdom, and that has resulted with the United Kingdom passing laws in Order in Council to have its way. However, where we might be able to last in spite of

the fact that there is an order made in Council, it might not be same when we have the destruction of our economic institution.

I realise that *man cannot live by bread alone*, but without the bread it will be hard to say what the point would be in having the morals because you would be dead. We realise that we are talking about bread today, we are not talking about how to do this and how to do that. It is a very practical issue; the preservation of our way of life from an economic point of view. What has been going on in this country—and it is the reason why this Motion is necessary today—is that certain persons have gone too far with the idea that Caymanian people are pirates, cannot be trusted, they are launderers and that you cannot clean up the white-collar crime which exists in our financial community with the assistance and the inclusion of Caymanian people even at the highest level. That was the position they came to during 1990 to 1992 when they decided to have a new way of dealing with issues of this type of conduct in the Cayman Islands.

When it comes to the point that the very people that you are protecting you cannot trust, there can be virtue that flows from your action because your action will be against those people who you are supposedly protecting because you do not trust them. You do not trust any of us, yet you are so benevolent to us that you want to give us an apparatus to spy on ourselves, on our guests and our customers, but at the end of the day you cannot tell us anything about that. That distrust is what has resulted in the lack of respect for the highest Court in this country. That was why we decided that since the Attorney General was in charge of prosecution and there was no further evidence being offered in the Euro Bank case and no further evidence being offered because of the prosecution's conduct, then the head of the prosecuting team must be seen as either lacking in ability or morality.

The Chief Justice, of course, in his ruling did not go so far as to say that there was any bad intention on the part of the prosecution and the Attorney General. That is my opinion from reading his findings of fact, but I also have to realise that the Chief Justice's problems in the Court are different from our problems in the government. We deal each day with issues that impact our economic interest, and if there is enough evidence from the findings of fact by the Chief Justice to show somehow the prosecuting team had some knowledge of the fact that Mr. Gibbs was an agent of a UK agency, it means that, although we do not control the Courts and although we are not lawyers, we have our own interests. I find enough evidence in the Chief Justice's verdict to say that as a Member of this Government I should be more careful about taking advice from the Attorney General, who by virtue of his position in this case seems to have sympathy, if nothing more, with the way in which the

United Kingdom agency has gone about collecting evidence and presenting it to the Courts of this country.

I do not have to say that the Attorney General has done anything wrong to have no confidence in him. I have no confidence in a system that has demonstrated over and over again that the Caymanian cannot be trusted when it comes to dealing with financial and criminal activities in our country. That position is based upon the perception of people who watch these movies and read these types of papers in London and other similar places. . .

The Speaker: Honourable Minister, we have reached the hour of interruption. May I call on the Leader of Government Business?

Moment of Interruption

Suspension of Standing Order 10(2)

Hon. W. McKeeva Bush: Madam Speaker, I do move that the relevant Standing Order be suspended to finish Business this evening.

The Speaker: The question is that Standing Order 10(2) be suspended to allow the Honourable House to continue the Business until the conclusion thereof. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended to allow the House to continue until the conclusion of Business.

The Speaker: Please continue, Minister of Community Services.

Dr. the Hon. Frank S. McField: Madam Speaker, the London Plan, as it is referred to in the Chief Justice's findings of fact, in my opinion indicates that the Attorney General had to have known, at some point before he decided that there was no further evidence to offer that Mr. Gibbs was an agent of a United Kingdom agency. We have now come to hear that Mr. Gibbs was paid to be an agent of that agency. We know that Mr. Gibbs' conduct has been looked at by the Foreign and Commonwealth Office by Minister Baroness Amos as being virtuous. As a matter of fact, the Governor praised the conduct and actions of Mr. Gibbs in a statement he made. We are being held here to say that our position that there can be no confidence in the Attorney General because of his association and relationship to the case which was presented means that, at the end, the Attorney General had to have

some knowledge since he was also Mr. Gibbs' local boss. The Attorney General was the head of the Financial Reporting Unit (FRU).

Members here have come to express the conflicts which exist in the way the Financial Reporting Unit is structured, one being the fact that the head of that unit reported to the Attorney General and not to the Commissioner of Police. We need to understand why the Attorney General wanted to have control of the Financial Reporting Unit in the first place. He had every opportunity given to him to let go of the control of the FRU. There were criticisms and questions from this House, questions from the public and the Commissioner of Police who felt that the FRU would be best as an investigation unit under the control of the Commissioner of Police. So why then did the Attorney General want to gain support from the last Governor to get control of this very important agency? Now that the agency is in disrepute, he, after having fought to get control of it, feels that he is not responsible for the conduct of the agency with regards to the destruction and distortion of evidence and hiding it from the Courts.

I feel that we have reason enough to take a vote of no confidence and that this vote should be held up by Parliament and the Cayman Islands' people as being the greatest expression of their will to see that their financial interest is protected in this country. However, after we get up in here and talk, to say that it has no value is to give it no power and no value. If all of us here in this Legislative Assembly decide that this Motion has great power and great value, then it will have great power and great value to the people that will read it. The people who will come here to talk to us about the significance of this Motion will see it as having the force of our Parliament.

Other motions have been passed here and have been respected, and this Motion is just like that. We have motions brought by the Opposition which impact Government's financial management and revenues. They bring motions and say, *'Government considers such and such so the Government can therefore consider this. However, when we know the House will vote for the motion, the Government best consider.'* I think this Motion is similar. The motions they bring have no power other than to stimulate debate, and that is what it is all about: stimulate debate and get feelings united on the issue. When we come to vote we unite on the issue, and it is that unification that is given the blessing of the Parliament. If we held this meeting on the street it would not have the power it has in Parliament. If Parliament is unified on this issue, it cannot be questioned by Baroness Amos or anyone. If someone decides to ignore Parliament, snob Parliament, disallow the vote of Parliament, then those would be the people inviting crisis, not us for expressing our democratic concerns and rights.

I think the public needs to think again about what the PPM is saying. The PPM is saying that this is weak when, at the end, we know that this is the strongest expression of our will and determination to rid ourselves of someone who we have come to the conclusion is against the public interest and the general good. This is the highest expression. We know that the Constitution is the way it is, so we cannot remove the Attorney General.

The PPM is calling for an inquiry and the inquiry should go on, but it does not necessarily mean that we have to inquire about the Attorney General in order to get rid of him. If they are suggesting that the inquiry needs to take place before we get rid of him, then I do not think that is the point. I am told that the inquiry would not have to go on at that particular point.

Surely we need to inquire into this whole assumption that the Cayman Islands people cannot be trusted when it comes to money laundering. We have to seriously confront them in London about their prejudices and their attitudes towards Caymanians. I think the premise is that because we have been successful in building a financial centre here that we have done that through criminal conduct and by using criminal proceeds, which is the furthest thing from the truth. Those people who have never been here who can tell us in this country what we feel, who can tell us in this country how to act, goes to show the position. I am quite sure that just like a child we cannot only complain to mother; but if mother does not hear us there is a bigger community out there that mother is a part of that will and say to mother, *'Do not abuse that child. That child has human rights.'*

Every day we are told by the British about human rights. Now we have some human rights too. We have the right to a certain amount of say over our domestic issues. Because the Attorney General's position is what it is, Parliament and the people cannot influence his position regardless of what we say and feel. Each of us here can be removed but he cannot. Although he sits above us, we can still reach and get him by this expression here today. To convene Parliament to pass an Act is the most significant act that we have done so far.

I believe that the Attorney General has left the country because of his pride. It has been hard on us to say to someone that we have sat with that we will not sit with him anymore. We know he has a family, he has feelings and he is a human being. There are sensitivity issues here, but we are elected to protect the interest of the Cayman Islands people as we see it. So when we turn on our colleague and say, *'Look we no longer feel that we can trust you. We feel that position is being used by the United Kingdom Government to erode the confidence people have invested for generations in the Cayman Islands. We cannot have that confidence eroded by the way in which you use this office.'* This was not the only issue,

there were other issues that caused us to believe that perhaps the man was not the best candidate for the office.

Madam Speaker, this is a very important step and he left the country, I believe, because of the stress and strain. I rode in the elevator with the man two times and said, *'Hello, David'* and we did not say another word. He was very polite, I was very polite, but who can live an environment for very long where people do not want to speak to you, where you know you are wanted, where no one trusts you? They come to the same Parliament where they sat with them and say, *'We have no confidence in you, Sir! Resign.'* Give us a break. It is our country we are talking about here. It is the only place we have to go when we are unelected. You can go someplace else. We have to face the music, Sir. Give us a break and resign for the good of the regiment and for the good of the country. Resign.

Madam Speaker, if we did not come here today for this Motion, a lot of people might have been led to believe that we do not even know how much rights we have to determine what happens to us; how much the world community will protect us in saying that we have a right to self-determination. We can still, according to the Partnership for Progress and Prosperity, be within the framework of the constitutional relationship and still exhibit our desire to have certain things happen. We are asking the Parliamentary Opposition to support the power and substance of this Motion, and that it not be held up with one side saying it is strong and the other side saying it is weak; one side saying we can do something with it and the other side saying we cannot do anything with it. This is the greatest expression of the people's will. It has to be respected by the Governor, the United Kingdom and the Attorney General, Mr. Ballantyne. It has to be respected.

We do not come into this Parliament without feeling as passionate as we do about this issue. I have gone through all kinds of soul searching about this. I have had strife with some of my colleagues about this issue because it is not an easy issue. It is an issue that when you decide to do it you must do it to the fullest because you are talking about your rights as human beings; to look after your own interest. I am not saying there are no people who can still advise us or help us. We still understand and accept that relationship, but I think we are wise enough, when it comes to the impact the Euro Bank trial has had and will have on our financial community, to say we have to do something about this situation and this is what should be done.

If we, the Opposition and the Government, leave here holding hands we will be better off. However, I do not believe that the Second Elected Member for George Town has the solutions. Sometimes the Opposition has to follow, and if it is a smart Opposi-

sition it will follow Government when it needs to. An Opposition should only seek to make political points when the points they make need to be made in order to improve the general good. There was no other way to arrive at that today but the way in which we did. The Attorney General knew that we wanted a resignation; the Governor knew that we wanted a resignation; Baroness Amos knew that we wanted a resignation; the whole country knows that we want a resignation. The Government stands as an Executive Council saying they will not sit with the Attorney General, meaning they want the man to vacate the office. It is now for Parliament to support the Government for the legislative branch because the executive branch has already made that statement in Executive Council and it has been recorded. Now Parliament is making that statement.

I want to know how Baroness Amos, *or any Amos*, is going to come down here and whip us into anything. The only thing that they can say is that it is an attack on the office of Attorney General and that their job is to safeguard that office. However, when that office becomes more important than the Cayman Islands people it is supposed to serve, then something is desperately wrong with that office. I suggest that they look at the purpose of establishing the office in the first place which is to make sure, on one hand, that the Government has independent, legal advice, that the Attorney General as prosecutor can prosecute without political interference and that the Judiciary is free from political interference.

When we look at the conduct of the prosecution by relying upon the evidence presented to them by Mr. Gibbs, who relied upon evidence that he bought from a witness who worked at Euro Bank, then we cannot see how the office holder is protecting justice, prosecuting properly, presenting evidence to the Courts in the right way and serving the interest of the Cayman Islands. So right there I think that we have made the case and we continue to be able to make the case. Even the Opposition can make the case why the Attorney General should not remain the Cayman Islands. If Baroness Amos, *or any Amos*, comes here and tells us that in spite of the fact that we have passed this Motion here today, and in spite of the fact the way the Cayman Islands people feel that this man must stay here, then there is something seriously wrong with the relationship.

Madam Speaker, I say to us: let the PPM go back and have their conference with their people and say to them, *'Today we came into the Legislative Assembly and although we feel certain issues of disagreement with the Government on other important matters, we feel that if we do not take charge of the issue of this Attorney General leaving and which Attorney General comes and who he serves, we will lose our vital financial advantage that we have in this country.'* It will impact all of our services. The United

Kingdom has given us the indication that they would like us to get more involved in tourism and less involved in the financial industry. If tomorrow our income were to decrease they would say, '*Learn to live within your means; shorten your budgets; cut your airlines. Get rid of this and get rid of that.*' They are telling us that already. Obviously, there must be some reason why they have been working to get us to look at our budgets and not borrow money, and all of this prudent financial management that they are introducing is getting us used to the lean years that they would like to visit upon us by their conduct. We have to be careful.

The Opposition has to stand with the Government on this issue because it is not a point anymore we can pretend that we are going to use to say '*Well, they are right, the Attorney General should go but they are terrible managers. Look how they have managed the situation.*' So if we managed the situation poorly and Baroness Amos comes, then all they are doing is supporting her by saying, '*Yeah, you guys are managing the situation wrongly.*' So how would it be managed properly? I still have not heard that. We say that we are going to set up a committee of inquiry into this, but we still—as the Leader of Government Business said—need to get the paper before Executive Council, and the Governor will only put forward papers to Executive Council that he believes should be there. So it is our greatest moment when we are able to say that the country stands united. How great it would be now if people could go to bed tonight after hearing the Leader of the Opposition say how much he wants to concentrate, unlike the Second Elected Member for George Town, on believing that this is one of the greatest moments in the history of the Cayman Islands. The representatives came into Parliament and passed an Act that they know had no constitutional validity but which they know had all other kinds of strength. It is appropriate and right to ask our people to support us by signing the petitions and standing behind us, not because of McKeeva Bush, Kurt Tibbetts or Frank McField. Resolving this as soon as possible is the only way we will prevent damage happening to our country, and that can only be done by a united Cayman Islands, which means a unification of all the representatives in this Parliament.

Madam Speaker, I know the hearts of the Leader of Government Business and the Leader of the Opposition, I know that they will make the people feel great by saying we take ownership of this problem too. We see it the same way and we will resolve it the same way regardless of how the little politics got started. That is why I think the Leaders should always speak first. When you have people who are not leaders speak first and then the Leaders speak, you will have two different situations. We know the Leader on the other side. This is it. We have to believe in our own words. That is the reason why poets are great.

Only the poet can read the poetry because they believe in the magic of their words and deeds. Let us practice what we preach. We say we are Caymanians, we say we are strong, we say we know what is good for ourselves, we say we have a right to determine our own destiny, to preserve the economics for our children tomorrow. Let us vote to support this Motion because it is a valid thing. It is the right thing to do.

The Speaker: Does any other Member wish to speak? The Honourable Minister responsible for Education.

Hon. Roy Bodden: Madam Speaker, history informs us that it is these kinds of occasions that separate men from mice. It is these kinds of occasions which demonstrate those individuals who sense the soul of the society and who have a sense of purpose and a sense of destiny. While it is true that this meeting today is symbolic, let that symbolism not be lost in the sense that we stand here today as representatives of the wider society, mirroring and echoing the principles upon which the Cayman Islands, as we know them, were founded and formed: the principles of honesty, conscience, respect for the rule of law and respect for the office that we hold. No one individual, no group, party or organisation is above those principles or the law. So we should rightly be alarmed when these principles are circumvented, there is a threat to justice and the system is subverted.

I am happy that the Government today has taken this position however symbolic, because we are sending a message to the people whom we represent that we are prepared to stand and be counted when it becomes necessary. At the same time we are saying to the metropolitan country—in this case, the United Kingdom—that we understand the relationship, we respect it and are prepared to continue it, but we do not find it possible to sacrifice our principles.

Madam Speaker, here is the reason why we have no confidence in the Honourable Attorney General: Concerns have been expressed several times about the unease within the relationship he found himself in when the FRU was restructured so that he became the titular head of one section. I have heard questions raised in this Honourable Legislative Assembly, I have witnessed the Commissioner of Police come here and he skirted as close as he could skirt, expressing his unease about the situation and, in as many words, said that no good would come of the arrangement. When the holder of the office of Attorney General had to respond he responded defensively and as if he knew best.

The case proceeded and it was obvious to all, *including Blind Bartimeous if he were around*, that trouble was brewing and that the case was not going for the Government as it was anticipated. We sat with that honourable gentleman every Tuesday, barring

few occasions in Executive Council, and like him, we the Elected Members took oaths of secrecy. He did not tell us of his concerns; he did not tell us that he was losing grip and that the case was not going according to his plan. He did not tell us if he had any fears that we were going to come out at the short end, and when it was necessary for the infusion of funds he came and got the infusion and still no attempt was made to share his fears with us. Now, you are telling me, Madam Speaker, that if he was so inconsiderate, so secretive, thought so little of us that he did not share his sentiments then that we should speak with him now on these matters? I say no! A million times, No! I do not wish to speak to the gentleman. It is nothing personal. He has nothing to tell me; he cannot inform or illuminate my understanding now because it has already been done by the Chief Justice in his finding of the facts.

Madam Speaker, I say too, were that any other officer, if he or she did not exercise the gump-tion and the honour to resign, then he or she would have been asked to resign; and if that response was not forthcoming, I am certain that a statement would be made by the head of state that such and such a person was retired in the public interest. So why is the holder of this post any different? Why should his sense of responsibility and honour be any different from anyone else's? For those who may not know, the office of the Attorney General is the office of a public servant, just like any other civil servant. It has no protection under the Public Seal, so he can be terminated, just like any other civil servant if the Governor so desires.

Madam Speaker, it is true what the Opposition says about this gesture having no constitutional strength; we do not argue that. We have taken a moral position based upon principles, and it is right that the Government step off first in this instance because the society is looking for the Government to state its position. So we have done this. What I am confused about is that the Opposition has accused the Government of politicking, of being involved in a shouting match and mishandling the situation, yet the Opposition shows up today and says that they are supporting the Government. Well, is that not then a concession that what the Government is doing makes sense and has some semblance of correctness to it? The Government deserves kudos. The situation is being handled in a dignified and responsible manner. No one is encouraging people to vote with their feet; no one is encouraging people to have noisy demonstrations, to boycott or protest in any fashion that would cause the community to be alarmed. We have taken a responsible and democratic route and we intend to continue that route. We are exercising our democratic and human rights to register our abhorrence of this situation. It is not that we do not support instruments to protect the society from criminals who

would launder money and commit illegalities. The record shows that the Cayman Islands have been in the forefront of these kinds of gestures. Let the record also show that we have to exercise concern when we believe that justice is subverted, shortcuts have been taken and abuses have been made by those whom we entrust with sensitive public office. Their standards should be no less than the standards for the rest of us, and I say that we are right in exercising the judiciousness that we have exercised. History informs us that this is not the first time these kinds of occurrences have taken place, and if we do not do something to stop them they will grow worse. The principles upon which we stand are universal principles for right and justice. The Opposition would be wise to find a way to join with the Government so that we can get to the bottom of this.

I notice that the Opposition was saying that the Attorney General should retire. The Attorney General cannot retire because he is a public office holder whose instrument of office is his contract. He is not an officer on the permanent and pensionable establishment, therefore he cannot retire. He can only resign or exercise the option of not renewing his contract. We say he should resign because retirement is not an option. So that is the difference in the positions we hold. It is important too to make the distinction that this is not any personal attack on the office holder. We are talking about a principle which would apply to any person who held that office. We respect and realise that this gentleman should be allowed to leave while still saving face. However, he should leave in a way that will put this country in an untenable position where we cannot quantify the cost of what this debacle has cost us.

The Government should be very careful in supporting any call for a commission of inquiry. What is such a commission going to yield? We are talking about putting closure to this whole debacle, and a commission of inquiry runs the risk of going on for months if not years. What is to be served? We need go no further than the Chief Justice's ruling and the findings of fact in that case. We need nothing more to base our judgment upon. We need nothing more to base our calls for the demission of office than that. We are saying that based on this it would be good for you, Sir, to demit your office.

Madam Speaker, I am saying that it is not fair, nor responsible for the Honourable Attorney General to hold this country at ransom. What is he trying to prove? As to the charges that this is a shouting match between the Government and the United Kingdom, that is not so. I am certain that the United Kingdom well expects the Government to articulate its position. I believe the United Kingdom would be very surprised if the Government capitulated without offering a defence of what it is calling for. However, we are not calling for any blood letting; we are not calling for any

purging. Again, I think those calls are ill-thought out. That is emotive language open to interpretation and ambiguity, and I would discourage my colleagues from using that kind of jargon because it lends itself too easily to detractors, to manipulate and lay charges. Those words are charged and incendiary; and if someone strikes a match while that kind of language is spoken we run the risk of an explosion. We do not wish any explosion; we wish to contain this because we believe it can be contained within the confines of parliamentary debate. It can be contained within the confines of proper, civil action. We believe it can be contained within the confines of responsible, societal behaviour and that is the route that the Government has taken. So we write and speak on the telephone; we met with Mr. Ian Hendry. However, there are nuances to be read into all these occurrences because I heard on the news that Mr. Ian Hendry is a personal friend of the Honourable Attorney General. So you tell me, Madam Speaker, if you are sitting down in negotiations and someone is a personal friend of one of the parties, what kind of results are you expecting? Is he a neutral person or has he come mainly to listen but still to say *'I have to stand by my friend'*?

Madam Speaker, the Government has demonstrated that it has taken a position of responsibility; it has taken the high road. The Government has demonstrated by its actions why it should continue to be the government. I want to lay another clear distinction because I have heard all the insinuations; I have seen the closets open and people threatening to let out the old bogeyman that I thought had been exorcised a long time ago since some of the people who used to use them are no longer here. No one on this side is talking anything about independence or constitutional advancement. The two should not be confused now; we are talking about a situation which has the immediacy of the Attorney General demitting his office, which is separate and apart from any talk of constitutional advancement and I would be weary of those who want to mix the two at this time.

Madam Speaker, no one is bashing anyone. We have merely lain out and demarcated the position which we are using parliamentary democracy and responsibility to defend, based on the feedback we are getting from the public. Respected and respectable non-governmental organisations in the community have said they have no confidence in the office holder. The Government is not by itself on a limb someplace, the whole community is together. I have heard from the news that 50 responsible Caymanians have come forward circulating petitions and gathering signatures to show their support and their concern and how serious they take this whole matter. It is a position of principle and if we let that escape us, then Heaven help us.

I believe that we, the Government, and the Opposition will have enough time to wrangle for those

who are interested in Constitutions and positions in the Constitutions, but now is not the time for that. We have a more immediate and pressing problem: to bring closure to this impasse and we can only do that by sincere dialogue, purity of motives. This challenge is bigger than either the Government or the Opposition; it is the size of both combined. If we lose sight of this opportunity to do what is right, history will not be kind to us. This is not the time for political one-upmanship, this is not the time to lay charge and counter charge, this is the time for action. The Government . . .

The Speaker: Honourable Minister, may I have the indulgence of the House to allow the staff to change the recording tape?

Hon. Roy Boddén: Certainly, Madam Speaker.

The Speaker: Could we remain in the Chamber?

[Pause]

The Speaker: I have been advised that the tape is now ready for recording.

Before the Honourable Minister of Education continues, it has been brought to my attention by the Clerk that the Acting Temporary Second Official Member, in the person of Mr. Bulgin, has tendered his apologies for non-attendance this afternoon.

Please continue, Honourable Minister.

Hon. Roy Boddén: Thank you, Madam Speaker.

Prior to the pause I was making the point that this is not the time for political one-upmanship and for charge and countercharge on the part of Government and Opposition. Rather, this is the time for us to narrow the differences and to find a way of coming together. The Opposition must understand that the Government, because it is the Government, reserves the right to step off whenever they deem it necessary. When the Government took the steps it did, it was well informed to take those steps for had it not done so, then it would have abnegated its responsibility and laid itself open to Opposition charges of indecisiveness or worse.

Madam Speaker, I say in all sincerity to the Opposition that I believe they have a problem in accepting the fact that the Government is decisive, that its leadership is unified and that it has a broad and deep comprehension of the challenges which the society faces at this time. On every occasion the Government has had to act, it has done so with decisiveness, with confidence and with the security that society as a whole understands and is supportive of its actions. That is the kind of government the country needs at this time. It is certainly the kind of govern-

ment that society expects and I would hope that this kind of performance continues.

The Speaker: Honourable Minister, I am going to ask my Deputy to deputise for the next 15 minutes.

[Pause]

[Deputy Speaker in the Chair]

The Deputy Speaker: Please be seated.

Honourable Minister, could you please continue.

Hon. Roy Boddén: Mr. Speaker, I turn to some challenges I think for which responses must be crafted by us all if we are to come out of this situation the wiser and the better off. Challenges to which the Government must respond because it is the government and it has to take the lead, challenges to which the Opposition must respond because the Opposition has a responsibility to perform a vital and important function in the Westminster system, and challenges which the society expects both, when necessary, to come together to tackle. The Government must, as it has shown it has done, come to a conclusion as to what it expects in terms of the continuation or non-continuation of the Honourable Attorney General in office. It must clearly, and unequivocally, impress upon the Foreign and Commonwealth Office, as it has, that there is no reason to discontinue the relationship but that it expects that its position will be respected. The way in which we have been accustomed to doing business will be adhered to and a reassurance from the Foreign and Commonwealth Office that no one has been given a licence to subvert the rule of law and pervert the course of justice is expected as well. Importantly too, it must expect some statement from the Foreign and Commonwealth Office as to who will bear responsibility, as we expect demands are going to be made for monies to be paid out in this case when we had nothing to do with the aborted trial.

The challenge that the Opposition has should not be to try to make the Government look bad, nor to try to claim that the situation is being mishandled. Certainly, one would not expect that the Opposition would not try to gain some advantage for themselves. That is fair and correct, but not at the expense of making baseless and false accusations, not at the expense of being irresponsible, and certainly not at the expense of consulting by using back channels.

Mr. Speaker, *when the chickens have come home to roost* we shall have to ask ourselves whether we have, indeed, not perpetrated a further injustice on our people and compounded an already bad situation by laying false and baseless accusations upon the Government as the Opposition has tried to do. Whether we have tried to improve the situation by be-

ing honest and forthright, I want to say that I hear the Opposition's call to work together. I hope that call is based on a greater purity of motives than other calls made in the past. I hope that call is laced with more sincerity than other calls that have been made in the past, and I hope that call does not hold as a caveat any desire or intent to divide and rule the ranks of the Government.

Mr. Speaker, the Government would be wise to listen to any sincere call for collective action in this regard; but the Government must be convinced, beyond a reasonable doubt, that the call is sincere, for the Government has demonstrated that it has the ability to address the problem as it should be.

It remains to be seen whether the people the Cayman Islands have elected to represent them have the will to deal with this problem in a unified and convincing fashion, or whether we shall continue to fall prey to that most colonial of tactics: divide and rule. The Government, for its part, is prepared to continue to plod.

I say to the Opposition that we have not heard from their interim Leader. What is his position? Is he ready to lead his followers? Is he ready to come and work with us? It is the Leader who carries the influence in these cases. I will sit and await his position because what I have heard thus far does not convince me that the Opposition is ready to do what they are purporting to do. This is not the time for rhetoric or to get on the airwaves and talk about how the Government is politicking and mishandling. This is a call for action and sincerity. Let us hear from the interim Leader of the PPM what he is prepared to do. We await his signal. Thank you.

The Deputy Speaker: Does any other Member wish to speak? Does any other Member wish to speak? First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you. Mr. Speaker.

Perhaps the first thing I should say is that I have sat in here all day and have listened very carefully to everything that has been said, expect for a few times outside the room, and most times I was still with an attentive ear. The Government must understand, first of all, that I have listened with as an objective mind as possible. I do not think that it is going to make much sense to go over the sequence of events because just about all of the previous speakers have spoken to various portions of the entire scene that has led up to this day. There will be times when I will have to come to certain specific points, but I will not tempt you, Mr. Speaker, with any call for tedious repetition.

Mr. Speaker, there are certain things which have been said today from both sides and perhaps one would wish that this business could be carried on without that. As we all know that is just about impossible when you have a Government and an Opposition.

Of course, the Government has, in their own way, meticulously brought out their own points to justify the actions. Above all, I think it is important to start off by identifying where we agree and perhaps offer a little bit of analysis on where the disagreements are. Maybe at the end of the day the Minister of Education might just be convinced that any call for working together to resolve this matter might be a sincere call. One of the great fears that we have always had—and that can lead from many directions—is when we looked at the picture. Everyone in here will have heard me state before now in the meetings that we had together with the deputy legal adviser to the FCO that after all is said and done there are basically three parties involved in the issue: the Cayman Islands Government, the United Kingdom Government and the Honourable Second Official Member. After all of the explanations and justifications either way with regards to the actions and other words that have been stated, we come down to bring any resolution to the matter to those three factions.

There has been a call, as has been stated earlier on, from several organisations. I think the Minister of Health referred to two of the calls as being judged by peers, or similar words to that effect where he would have been referring to the Law Society and the Bar Association's call for the Attorney General to retire. The Minister of Education has made clarification to the words "retire" and "resign", but for all intents and purposes I think we know that in this instance the attempt is to come to the same conclusion. When we sat to talk and listen about it, having had the opportunity to read the Chief Justice's findings of fact, the fear that was expressed was that we might get to the point where all parties may have found themselves in circumstances where it was impossible to move forward. Having taken certain positions, any backtracking of those positions to allow the other parties some latitude may not have been able to occur.

Obviously, today the Government does not see any justification for that fear. I am certain the Honourable Leader of Government Business has made his notes and will defend the Government's position when he winds up, which is expected. Regardless of the differences expressed here today, that fear that the Government thinks is unfounded was not so in our minds. There was no question about us wanting early resolution to the matter. Earlier the Minister of Community Services saw me shaking my head in an attempt to explain our position without talking across the Floor. Let me say outright that we do not call for an inquiry being the same commission of inquiry, or the Constitutional arrangement that is allowed, by the two ways that the Minister of Health explained earlier whereby the Governor will call for it or the Honourable Chief Justice would recommend it to the Governor. After we say all that we say between us—and we will stand up and justify why we think the way we do and

the Government does the same—the fact is that just about everything that we want to happen, the Government wants it to happen and vice versa. Let us see how we can make some sense out of the mud.

In our view, to replace the body that now fills the post of the Honourable Second Official member will not change anything, and the Government has expressed and accepted the same view. However, we saw it as an independent inquiry which would not obstruct the business of the country going on but would simply be able to gather all the facts and report whatever those findings were in a manner that the Government of this country would find itself in a position to be able to sensibly discuss with Her Majesty's Government as to how to best reconstruct the operations of the FRU.

[Madam Speaker in the Chair]

The Speaker: Please be seated.

Continuation of the debate by the First Elected Member for the district of George Town.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker.

As I was saying, this inquiry would have allowed for the facts to be gathered and the findings to be delivered. We may begin to argue about how that will work and there are several scenarios which we could all put forward. I still maintain that this is perhaps the only clear way. After this has happened, we may be successful in what we want to achieve without something else being discovered five or ten years down the line that the government of the day, whoever they be, might have grave concerns about. I do not want to confuse the issue about the Constitutional arrangement and the type of inquiry that we speak to. If when we investigate the situation there is absolutely no possibility of that occurring, because nothing in the world allows for that, then I do not know what to say after that.

When we called on the Government initially to deal with that situation we did not exclude His Excellency the Governor from the term "government". Perhaps, in retrospect, someone might say, '*You should have made it very clear*'. Certainly, we did not exclude His Excellency the Governor because we respect and understand the same Constitutional arrangements and the fact that he would have had to have knowledge of that situation, and perhaps through him FCO would have been an agreement. We understand that difficulty also because the fact of the matter is that London finds itself in an embarrassing situation and we know that. Yes, of course we know that. It is only where the roads shift about '*how do we get to the objective*'. There is no difference with those objectives for us and there could never be.

Madam Speaker, we have heard from this side some heartening words today which, again, were

part of our 'worry train'. We have heard three individuals from the Government's side speak about entering into constructive dialogue with the Baroness, when she arrives, with regards to further dialogue or if it should end there. We did not want to find ourselves in a situation where everyone was playing hardball and resolution could not be had in short order. Again, we all are in agreement that the longer this lasts the more damage it will be to the country in every way we can think about. If we want to speak the fancy language, restoring confidence in the financial industry and the justice system, we can do so or we can bring it down to the brass tacks. If things begin to happen our economy can easily shrink, which is what the Minister of Community Services alluded to earlier. Once that happens we will find people unemployed more so than now.

So, Madam Speaker, please understand that there is no question in my mind about the potential damage, and far be it a thought of ours to participate in the process in any manner which would lend to that. Even when we speak to the differences of choice of words, et cetera—perhaps the Government will pounce on some of them—the truth of the matter is that I do not believe there is anyone in here with the desire to act in a manner that is irresponsible to that level because it benefits none of us.

I noticed the front page of the *Cayman Net News* mentioned the FCO threatening elections and my good friend, the Minister of Communications and Works, had something to say about that. As a people facing today's challenges, there is absolutely no one—the FCO, my friends, my family nor anyone—who could convince me that an early general election at this time, for whatever reason, could have any benefit, whatsoever, to this country. If that message needs to be sent, so be it because, in my mind, there is absolutely no sense in that and I am certain that all whom I have named will hear it.

There are too many challenges that we have to deal with and we do not have a lot of time to deal with them. It is a pity that energy has been spent on the distractions we now face, but such is life. Now, as the call has been heard from all concerned, even after whatever else is said, the fact is that it is of utmost urgency that we get this business behind us and bring resolution to the matter so that we can move on to other important things.

Some of those important things are associated with the matter that I speak to and some are not. Suffice it to say that on that specific point the Parliamentary Opposition would have no desire to participate in any action that would be considered irresponsible because of any gains to the movement, or to the five Elected Members who are part and parcel of that movement.

If questions are asked with regard to simply joining the Government in their efforts, it is a difficult situation and if one is objective one will understand. Many of the arguments that I have heard today I have not heard before and they make sense. The truth is that there is comfort in the thought that this is the reason why you have a government and an Opposition. Even when the Opposition is pounced back on because the Government feels that the Opposition has unjustly gone at them, it does bring out the thought process that in order to make sure that what you suspect the Opposition might be thinking, you have to ensure that you move forward and say and do what you have to. Again, such is the nature of the system, and that is good.

Madam Speaker, let us look to some of the specific and relevant issues with regards to the Motion. We perhaps can get by without having to argue too much anymore about what sense the Motion made and what sense it did not. Everyone has spoken about that and we have gotten to the point where the Government has said they consider this important because it is the final lap that the representatives are making a clear statement. Regardless of those differences in how we see the picture, the fact is that after all is said and done, resolution must come and it must come speedily to this specific matter. In voting for the Motion, what is important to us is that is but one hurdle resolving the matter with the Honourable Second Official Member. The stakeholders, the movers and the shakers would still have all of the questions in their minds as to how the FRU will be constituted and how it will function from hereon in. As we know, we have the divisions with the FRU itself and the Reporting Authority. We have all spoken about both sides having problems for quite some time with the arrangement, which I dare say hardly any one of us could really make sense of or know exactly what the true arrangement was. We heard the Governor's words where he said he gave a commitment to openly discussing the restructuring of the FRU, but that matter has to be resolved quickly.

From what I have heard today the Government takes a bit of a different view from us, but I want to express the nature of our thinking. Nowadays, you have to negotiate with your children if you want to get the best results. I am not trying to jump on the Minister of Community Services' example of mother and child; I only use that to explain. If negotiations prove fruitful, whether it is two or more parties, you have to find yourselves in a position where all the parties can walk away. Even if there is a little bit of stuff that you wish you could do different because you had to make compromises to allow everyone to walk away from it and live, that is what has to happen. It does not matter which way we cut it. In all that we say or do, whether we say we are acting responsibly or irresponsibly, the fact is that no matter what happens, if we accept a

resolution to take place negotiations will have to take place. Then we must ensure that we are of a frame of mind that all that is said or done allows for enough latitude in those negotiations to make it happen so that we do not find ourselves in a situation where the compromise is cut short on both sides and we are left not knowing what to do.

If the Government is content that what it has said thus far still allows for that to happen, then I am heartened. However, the Government, in my view, must accept that there will have to be some ability to manoeuvre within the negotiations for resolution to come about successfully. I do not want that statement to be misunderstood or anything else misquoted. The compromise that I speak to is not trying to suggest to the Government that what we know to be the facts will not be made the facts. I am not suggesting that what are facts be changed to something other than facts or anything like that. It depends on where the negotiations go. Certainly, we have seen from one press release that after we stated our position we had to be careful. Work can be doubled or tripled if we get a few more of them, as unfair as we all would say that it is. I am not suggesting that they have them stacked up and waiting to come out. I do not want to be misunderstood in this instance either. All I am saying is, in all our negotiations with the United Kingdom Government, while I agree that those negotiations need to firmly state what we know to be the facts and get to the point of achieving redress, the country right along the line has said that they have lost confidence in the Attorney General and it is in the best interest of all concerned, including him, that he moves on. That is another new way of saying it. He does not have to retire, he does not have to resign, he just moves on. It means the same thing.

So, Madam Speaker, when we put the whole picture together, it comes down to however those three parties are able to conclude with a satisfactory situation the three of them can live with. I have heard the Minister of Education allude to the Honourable Second Official Member's comment about things that no one wants to see happen. I have heard the Minister of Community Services speak to how he has agonised over the situation, trying to come to grips with the right position. That was, I have to say again, heartening because all of us have had to go through that. Perhaps we are still in the throws of it at certain levels. This is nothing to be taken lightly when all is considered. The truth of the matter is it is worrisome, to say the least, and will be trying on all of us to line all our ducks in a row as we move forward. Regardless of what either side has said, I am still confident that the matter will be resolved.

Madam Speaker, I look across at the Honourable Third Official Member. I know him and I know that perhaps his emotions have been charged as much or more than most of ours for various reasons,

not the least of which is his love for the country. I also know, without having had the benefit of speaking directly to him about it, that he recognises the many challenges that lie ahead as a result of what has happened, bringing to bear more so than the myriad of challenges we face without thinking about that.

For years we have lived with some tabloid every so often making some statement that we know is not a fact. You turn the heat up and try to use your own PR to counteract it. We need to get to the point where we can start to deal with that because the difficulty that we face now is, no matter how much planning you do, as of now it makes no sense to even waste a dollar on it because there can be no results to the situation as it obtains. So those are things that we seriously have to consider, which I am certain the Government has and is taking into account. I say that because wherever this message is going, however unimportant it may seem, I believe that it is one of the most important things with regard to any negotiations. It has to be borne in mind and discussed.

We have been taking the body punches all along, and without going into details, many of us know where they originate and why they are doing it. Somewhere along the line we need to talk it through to get assurances that, as far as is possible—and I am not suggesting that any one entity controls every tabloid—if the message is sent, there will be less of that that we would have to deal with. That has to be part of the whole affair.

Madam Speaker, I have chosen to deal with this in this manner this afternoon because I do not believe, after having listened to everything that I have heard, that it makes any sense for us to spend much more time arguing amongst ourselves. I do not believe that. From our side of the fence, whatever constructive role we can play to bring resolution, certainly we are quite prepared to do so.

[Inaudible interjection from Member of the House]

Hon. D. Kurt Tibbetts: I say that with all sincerity. I hear certain little talks about "divide and conquer".

[Inaudible interjection from Member of the House]

Hon. D. Kurt Tibbetts: Whatever I believe, I have said or I will say in the future to anyone regarding this matter, I can say it openly and publicly. I do not have any reason to want to juggle a situation. You see, Madam Speaker, life is fundamental and simple. It goes back to the old saying, 'We do not have anywhere else to go.' That is a fact. It behoves us to try to protect our interests within this territory. Even with the politics of it and wanting to make sure that the public is satisfied, you are responsible as representatives and, as the Minister of Education put it, the Opposition might seek to gain some

mileage out of the whole affair, but that cannot be and is not the primary motive.

The Government now knows that after all is said and done we want to bring resolution to the matter. We want to ensure that while we know what has happened up to this exact point, from hereon in we will have as little damage as possible done. Sure we will disagree for reasons that are obvious and some that are not in some of the ways to do things, but that does not go to any large degree as a detriment. What that inevitably does is stimulates the minds, whether it is the Opposition listening to what the Government says or vice versa, and it will bring other perspectives to bear which would allow for better results. With all of that, having heard what has been said today and having heard what has been said by some Members of the Government and their Back Benchers, let us ensure that not only do we give careful thought but we make sure that we create every opportunity possible to bring about the resolution that we all speak to about this matter as quickly as possible. The Government obviously does not believe that it should be done in a way except for the strong message being sent. I do not want to stand here and try to spend an hour going into the intricate details of this or that to say, *'Well, perhaps you should do it like this'*. I do not want to get into that because right now that is not what is going to help. We would then go through another exercise again of me justifying why I said that and them justifying why they said the opposite. So, perhaps we have had enough of that now. Let us ensure that as quickly as we possibly can, and I dare say the earliest opportunity that I know about is when the good Baroness arrives. I am certain that there will be discussions with the Government. Let us see if it is at all possible to try to bring resolution to the matter as quickly as we can once those discussions ensue.

The Government needs not misunderstand any of the statements I have just made because it is simply a matter of us articulating the desire in concert with what the Government has said to bring the matter to resolution. I will not get into anymore specific details with it, the fact of the matter is that there are situations which exist now that the United Kingdom Government has a responsibility to the Cayman Islands Government to ensure are corrected in a satisfactory manner. I do not think any one of us will question that. However, for reasons which we do not have to discuss in length, let us ensure that we have all of those lined up and we knock them off one-by-one and bring resolution as we go along.

Before I close it is important to say that I do not believe from what I have heard today that any one of us does not want to bring this relationship back to normal as

quickly as is physically possible. Some Members spoke to the Partnership of Progress and Prosperity, which must be a two-sided affair and we all agree on

that. I believe that if we handle the situation right, we may well be satisfied with the end results. Insofar as any disagreements with regards to methodology, let there be comfort to the nation that the objectives are the same. Whatever the differences are before and after in this specific matter, it will only be easily handled articulation and nothing that would interfere with making progress.

Madam Speaker, the Government will know whatever role the Opposition plays. The Opposition wishes to play no role without the Government's knowledge, contrary to what some may think. There is absolutely no benefit to any one of us doing it in that manner. It is absolutely no benefit to the country and no one can get anything out of that besides running the risk of exposure that this was the case and then having to try to justify that. It makes no sense, not to me anyway.

Heaven forbid that we have to live with this on our chests for too long. My God has told me that we will resolve the matter and I am content that we will. We are going to have a few bumpy roads to travel after this, for certain. While we have the Government and the Opposition, let me give every assurance that the Opposition will live within the lines of being just that, a constructive Opposition. When the Government goes too far when they are ready to, as we call it, 'pound us up', they will get their answers. However, we will not lose focus or sight of the objective. After we finish today's episode we will see how we can get along from here. The Opposition is willing, and I am confident with what I have heard from the Government that they are willing too. Thank you.

The Speaker: Does any other Member wish to speak? The Honourable Minister responsible for Communications.

Is it the will of the House that we take a suspension, or do Members want to work through without taking a 5 or 10 minute break?

[Inaudible response from Members of the House]

The Speaker: In that event, the Acting Clerk has advised me that for those Members who wish to slip out for a snack, it has now arrived.

Please continue, Honourable Minister.

Hon. Linford A. Pierson: Thank you, Madam Speaker.

My faith in my fellow colleagues on this side of the House has surely been increased by the high level of debate I heard here today. I wish to also congratulate the First Elected Member for George Town for teaching his colleague, the Second Elected Member for George Town the proper manner in which he should behave in this House. I will come back to some of the comments made by the First and Second

Elected Members for George Town, but before doing so I wish to say that this is not a very happy day for any of us.

It has been said by my colleagues before me that today's meeting is to formally record the lack of confidence Members of the Legislative Assembly have in the Second Official Member, the Attorney General. This lack of confidence is contained in the Censure Motion, Government Motion No. 11/02, which will form the basis of my short debate. For the listening public that may be just tuning in, I wish to just read this short Motion for their sake. It reads: "**BE IT RESOLVED THAT this Honourable House expresses its loss of confidence in Mr. David Ballantyne, Government's Principal Legal Advisor/Attorney-General/Second Official Member of the Legislative Assembly and of the Executive Council.**"

Madam Speaker, I join in with my colleagues who have advised that this, while more of a symbolic Motion in nature than real compulsory or mandatory, will nonetheless record in the *Hansards* of this Honourable House the solidarity of the majority of the Members of this House, if indeed not all Members, and will show beyond doubt the views and resolve of the Elected Members of the Cayman Islands Government. This, by extension, can reasonably be seen to represent the views of the majority of the people whom we represent. The Euro Bank fiasco has already been publicly articulated by the Legislative Members of the United Democratic Party and widely published by the various news media. My position today, Madam Speaker, will therefore be consistent with the views already expressed by me at our public meetings.

As mentioned at our meeting in George Town on Monday, 20th January 2003, I view the Euro Bank fiasco as falling under three major headings, which are as follows—

1. The undisputed findings of fact by the Honourable Chief Justice on the abuse of process in the Euro Bank case.
2. The reaction of the Ministers of the Executive Council and other UDP Legislative Members.
3. The unreasonable reaction of His Excellency the Governor and the Foreign and Commonwealth Office.

Madam Speaker, based on the recorded knowledge of Mr. Brian Gibbs' behaviour in the John Ray case, which was lost by Government when taken to the Privy Council and which cost Government well over \$1 million, one has to question whether Mr. Gibbs' malicious and unwarranted behaviour in that case may not have been used in his overzealousness to destroy the reputation of individuals whom the Court subsequently found to be innocent of all charges brought against them.

It seems somewhat self-serving and incredible that any attempt could be made to discredit the findings of fact by the Honourable Chief Justice in this case when no attempt was made by either Mr. Ballantyne, the Attorney General or his senior council, Mr. Andrew Mitchell, Q.C., to refute any of these findings prior to them publicly stating that they had no further evidence to offer in the case and that they concurred that all charges should be dropped against the defendants, and further that no future action in relation to the case should be brought against them. Also, Madam Speaker, the Attorney General admitted that there was improper behaviour that caused him to abort the Euro Bank case. In this connection he stated, and I quote, "Had persons behaved properly the Crown would not be in this position."

Madam Speaker, when one takes the time to thoroughly read the undisputed findings of fact by the Chief Justice there should remain no doubt in their minds that the Attorney General, Mr. Ballantyne, was very much involved in the attempted miscarriage of justice in view of his knowledge and involvement in what is described by the Chief Justice as the London Plan. For the record, the London Plan, as stated by the Chief Justice in his undisputed findings of fact, involved a process in which the Grand Court of the Cayman Islands would have inevitably been misled as to the true provenance, custody and composition of Edward Warwick's evidence and intelligence material. The Chief Justice also stated that the London Plan, from its very inception, had committed the prosecution, namely the Attorney General and Mr. Mitchell, to a course of action that was inherently misleading and which required Brian Gibbs and Mr. Ballantyne to represent to the Grand Court and to the defence a falsehood.

Madam Speaker, based on this finding of fact on its own, His Excellency the Governor, with the support of the FCO, should properly have sought to remove Mr. Ballantyne from office. Indeed, if such inaction had been taken in the UK by someone of Mr. Ballantyne's position, there is no doubt that that individual would have promptly resigned or been removed from office. Why therefore should a lesser standard apply in the Cayman Islands? We have heard that the Attorney General has been quick to say in his defence that the Chief Justice did not find that he had acted in bad faith. However, Madam Speaker, the Chief Justice did, in fact, say that his involvement in the London Plan was inherently misleading and committed the prosecution to represent to the Court a falsehood. I submit that not only does that behaviour constitute bad faith toward the Court and the people of these Islands but also should have formed the basis for Mr. Ballantyne's dismissal.

The editing of the evidence of the prosecution witness under the London Plan was done with the sole purpose of misleading the Court and thus per-

verting the course of justice. His Excellency the Governor and the

Foreign and Commonwealth Office had knowledge of the Attorney General's role in the Euro Bank case. So how then can they state that they have every confidence in the professionalism and integrity of the Attorney General, David Ballantyne, who they say did all he could to ensure that the trial could be conducted fairly when he admitted improper behaviour was the cause of the Euro Bank fiasco? My Oxford Concise Dictionary defines "integrity" to include moral uprightness and honesty. I pose the question, Madam Speaker: Can either of these two descriptions apply to the misbehaviour of the Attorney General in the Euro Bank case?

As if the FCO's characterisation of the Attorney General's behaviour in the Euro Bank case was not sufficient insult to our intelligence, they have added further insult to injury by stating that the Attorney General has served the Government and the people of the Cayman Islands well and should continue to command their trust. Madam Speaker, the FCO's statement on the collapse of the Euro Bank trial, dated 20th January 2003, was riddled with arrogance and was disrespectful to the Government and people of the Cayman Islands. How could Baroness Amos state that she was so concerned by the collapse of the Euro Bank trial and then further state that she has every confidence in the person responsible for that collapse? The statements made by the FCO have the effect of eroding confidence in our well-regulated financial centre and thus damaging the economy of these Islands. I am very concerned that our mother country would make public statements which have the potential of destroying our economy which we have spent so much time and effort developing.

Madam Speaker, the Chief Justice's undisputed findings of fact were comprehensive and well thought out, but above all, very factual, so much so that neither Mr. Ballantyne nor Mr. Mitchell offered any objection to anything that was contained therein.

As I stated at the outset, my debate will fall under three major headings. I have attempted to deal with what I consider to be the major issues arising under the undisputed findings of fact. However, Madam Speaker, these findings of fact by the Chief Justice were contained in a 47-page document, and it would serve very little purpose to reproduce all these findings in the time allotted to me today, thus the reason I have confined myself to those which I regard to be the key issues of the findings of fact. It is therefore against the background of the undisputed findings of fact by the Chief Justice that I now move to the second of the three key issues upon which I wish to speak.

The second issue deals with the reaction of the Ministers of Executive Council and their UDP Back

Bench supporters in relation to the various abuses by Mr. Gibbs and the prosecution team in the conduct of the Euro Bank case. It was because of the independent and fair manner in which the case was conducted by the Honourable Chief Justice, and in light of his findings of fact, that the Elected Members of the United Democratic Party Government issued a statement reaffirming our faith in the rule of law and independence of our Judiciary, in particular, the Honourable Chief Justice, but at the same time deploring the behaviour of the Attorney General, Mr. Ballantyne, in the Euro Bank case. In our statement of 15th January 2003, we said, *inter alia*, that it should be obvious to those that have had the time and the opportunity to read the findings of fact released by the Court to the public on 14th January 2003 that the principal persons in charge of the investigation and prosecution bear the responsibility, whether directly or indirectly, for the travesties which have occurred and that those persons can no longer enjoy the confidence of our people or the Elected Members of the United Democratic Party Government and we look forward to their resignation forthwith.

It seems, Madam Speaker, that it was this first statement that prompted the People's Progressive Movement to accuse us of rushing into action. However, in all the criticisms of the Opposition, both on radio shows, here today and otherwise, I have yet to hear one constructive suggestion, especially from the Second Elected Member for George Town, to show how they would more effectively deal with this issue.

The Opposition is aware of the Constitutional provisions under which the Attorney General may be removed from office. They should also know that under those Constitutional provisions the Governor, in his discretion, would be responsible for setting up a tribunal of three experienced individuals selected by him from among persons who hold or have held high judicial office. Now the question arises as to whether, in the circumstances, considering the vote of confidence already placed in the Attorney General by the Governor, it would be reasonable to expect that the Governor would appoint a tribunal that would oppose his views in this case. On a range of probabilities, it is reasonable to conclude that a tribunal selected by the Governor in these circumstances would be a waste of time. With these circumstances in mind, it would be interesting to hear what the Opposition would have done to improve the actions taken by the Government, and we have heard some of that today. I am sure that they would not expect outright capitulation and full compliance with retaining the status quo of the Attorney General.

Madam Speaker, it is at this point that I would just like to refer to some of the comments made by the Second Elected Member for George Town. Before commenting on what he had to say, I would like to say that I have not, in all my time in this Honourable

House, seen a Member take so much time to say so little. I heard the Second Elected Member for George Town berate the Leader of Government Business. He referred to him as not having sufficient skills and he called his leadership ability into question. It is a pity that he did not withhold his youthful enthusiasm and lack of experience in this House. One would have thought that he would have held back in trying to lecture the Leader of Government Business who, because of his long tenure in this House, is rightly known as the 'Father of the House'. The Leader of Government Business is a five-time winner in the General Elections. His people have returned him five times when the Second Elected Member has only wet his feet once. Yet he presumes to have all the answers to the political problems in this country, and he presumes to be able to lecture the Leader of Government Business and other Members of the United Democratic Party. That is why I do not feel that the First Elected Member for George Town will have any fear of the Second Elected Member ever taking over for him.

He needs to understand how to deal with people. Madam Speaker, he must appreciate that when he stands in this House and he lashes anyone on this side—anyone! I do not care whether I might have had a problem with that individual or not—when he does that he also does it to me. I do not want the Second Elected Member for George Town to feel that I have anything personal against him.

[Laughter]

Hon. Linford A. Pierson: I do have a lot of regard for his abilities, but sometimes I think he puts his mouth in gear before he does his brain.

He says in one breath that we all agree that the country has lost confidence in Mr. Ballantyne but disagree with the way the matter has been handled. He disagrees that we should have brought a Censure Motion but sits here in the House and says that he is going to vote for it. If he has such a strong view against the action taken by Government, why is he being party to it? Is it a lack of his conviction? He also states, in his usual manner, that the country is in the midst of a major Constitutional crisis. I have searched hard to find it, but I do not see this major Constitutional crisis he is talking about. Could it be a crisis in his mind?

As if that was not bad enough, he went on to say that it would have been so much better if the UDP Government had consulted with the PPM to try to smooth this out. Madam Speaker, you tell me, from listening to the Second Elected Member this morning, whether that type of vitriolic approach toward the Government Bench would have helped very much in smoothing out any issue at all. Madam Speaker, he stated that debating the Censure Motion is an action

in futility, but yet he has stated that he will, in fact, vote for the Motion. I am confused by the thinking of that Honourable Member. He says one thing through one side of his mouth and something through another side.

I feel that a bipartisan approach is a good approach, but I would be very fearful to have that Honourable Member as one of the chief spokespersons for the Opposition. I must say to the Member for East End that I thought he expressed himself really well. I thought that he spoke his conscience and for a minute I felt that if he had dipped himself two or three times in the Jordan that we could have accepted him on this side.

[Laughter]

Hon. Linford A. Pierson: Everyone knows I have a lot of time for him; he is one of my favourite cousins.

[Laughter and comments from Members of the House]

Hon. Linford A. Pierson: Madam Speaker, as I said, I was encouraged by the First Elected Member's comments, even though I felt that he could have been somewhat more forthright. Nonetheless, I was optimistic by what he had to say. I was also encouraged to hear that there is no fear of divide and rule because I can assure the Opposition that the UK are masters at the strategy of divide and rule.

I believe that this Motion will receive the support of all Honourable Members of this House. The Second Elected Member for George Town spoke at length and had much more to say, but I could not find too much more that was worth me repeating so I will not continue to quote what he said.

The Opposition needs to be forthright with the people of these Islands and state clearly whether they wish to have the Attorney General remain in office or not, and I think I have heard that here today. After listening to them on the radio, I think it was Friday, I was left to wonder exactly where they stood, and in particular, where the Second Elected Member for George Town stood. They have said they do not wish to have him remain in office, but in past discussions on the radio they have contradicted this by criticising the only reasonable and logical steps that are open to us for accomplishing this result. They cannot talk out of both sides of their mouths; and once I see them falling inline and behaving themselves, they will not see me on any platform getting at them, not all of them.

I know that they will join with us in the vote of no confidence... I have to be very careful with the Elected Member for East End because some of his family is very dear to me so I always treat him very good.

[Inaudible interjections by Member of the House]

Hon. Linford A. Pierson: Madam Speaker, though the statement made by the FCO on 20th January 2003 was most unfortunate in relation to the hitherto relationship between Her Majesty's Government and the Cayman Islands, I believe that this already deteriorating situation has been exacerbated by the statement made by the Governor on behalf of the UK Government on 29th January 2003. I have the greatest respect for the Governor, but he cannot make such a statement, especially after being requested by Ministers of Government not to do so and then express surprise that he is criticised for so doing. How could the Governor and the FCO issue a statement that the Director of the Financial Reporting Unit (FRU), Mr. Brian Gibbs, is no longer in the Cayman Islands because of a potential risk to his personal safety? Who is going to attack him, Madam Speaker, Ivan Burgess?

[Laughter]

Hon. Linford A. Pierson: Madam Speaker, I do not know any of those four individuals to have a history of violence. Nobody was going to attack him. The truth is that Mr. Gibbs' flight from the Cayman Islands was to avoid being arrested for his criminal activities.

The Speaker: Is that your opinion, Honourable Minister?

Hon. Linford A. Pierson: That is my opinion, Madam Speaker, thank you. In my opinion, his flight had nothing to do with any potential risk to his personal safety, it was to avoid going to Northward. His Excellency the Governor knows this, as well as the FCO.

I would like to record that today I call on the Commissioner of Police to issue a warrant for Gibbs' arrest and bring him back to the Cayman Islands to stand trial. Had it been one of us or our children, we would be suffering in Northward Prison now. I am reminded of how the life of one of our outstanding citizens for East End was destroyed. This man served the country well all of his life, but yet Brian Gibbs seems to be above the Law. He is so afraid that somebody is going to beat him up or injure him that he takes a flight away.

I think the Governor's 29th January 2003 statement really upset a lot of people in Cayman. Not only did he say that Mr. Brian Gibbs had to leave because of potential risk to his personal safety and his family, but the statement went on to further insult the people of the Cayman Islands by saying that Mr. Gibbs has had a long and honourable career in public service in the UK and in the Cayman Islands. I do not know about the UK, but from the time I have heard of that gentleman he has brought woe to the people of these Islands, as far back as the John Ray case. Who knows how many other people might have suffered

through that man? Yet he is still referred to as an honourable man of integrity.

The FCO has continually attempted to deflect attention away from the main issue in this matter by insisting that the main purpose of the UK agency, Gibbs and the Attorney General was the prosecution of money laundering and other financial crimes in the Cayman Islands. They have tried to paint the Cayman Islands as a money laundering jurisdiction when, in fact, the Cayman Islands has a higher level of regulation in our financial industry than you will find in London or New York. We do not just stick to international standards, Madam Speaker, but we employ best practice in many areas of the financial industry.

Madam Speaker, the fact is that the Grand Court found that Gibbs, on his own evidence, destroyed, altered and withheld evidence which was highly relevant to the innocence of the defendants in the Euro Bank case. Is that an honourable man or is that a criminal activity?

It was the mishandling of the Euro Bank case that is the crux of the whole matter, not the contents or the point that they started an investigation into the Euro Bank. Many individuals feel that Euro Bank, when it was put into liquidation, was a solvent bank and that if somebody in the bank had done something wrong they should have gone after those individuals, just like they did when the Russian took money into the Bank of New York. They did not close down the Bank of New York; they dealt with the individual that did the wrong thing. What was the purpose of putting a totally solvent entity into liquidation? Now, as the Leader of Government Business told us this morning, we have writs flying right and left. I have a copy of one for \$3.5 million, and I understand that there could be several other similar writs. Who is going to pay for this, Madam Speaker? Should the Cayman Islands Government have to pay for this when we had nothing to do with it? Or, should this be paid for by the UK Government? This is the question that we have been asking and we need an answer. What do they expect us to do to find some \$20-40 million? Increase the taxes on our people? No way. I think they are paying enough taxes as it is.

This is an issue that, again, we invite the Opposition to support us on. I tell you, listening to my colleague, the Minister of Community Services today, I believe he should change his profession and become a preacher because the alter call was really strong. I do not know if any of you guys could resist that because I know if I had been on that side I would have found it hard. It was really good and I had to turn around and tell him that. He was not just making it up, he was not even using a note; it was coming from his heart. Everybody knows the reputation of my colleague to my right, the Minister of Education, and as usual, he made a very sterling debate. However, I should not pick people out because my good friend,

the Second Elected Member for West Bay, my friend, the Minister of Health, as well as everyone else on this side spoke well about this issue.

[Background chattering]

Hon. Linford A. Pierson: Some on that side, too. I have to be fair.

[Laughter and comments made by Honourable Members of the House]

The Speaker: Order.

Hon. Linford A. Pierson: Madam Speaker, when we consider the Attorney General's activity in the conduct of the Euro Bank case in general, but in particular, his involvement as head of the FRU of which Mr. Gibbs was the director, and his knowledge and involvement in the London Plan, there should be no doubt in anyone's mind why the Government has lost confidence in him. It is not only his involvement in the London Plan where they redacted, destroyed and hid evidence, but also the fact that he was Mr. Gibbs' boss. How can he say he does not know what was being done within the department? The buck has to stop on his desk. You cannot be the boss of a business and say that you do not know anything about it. As somebody said behind me, Hitler said he did not know anything about killing the Jews. He knew; he was the ring-leader. Madam Speaker, how could Government, with all that I have said, be reasonably expected and asked to sit with Mr. Ballantyne in Executive Council and continue to accept his legal advice with the knowledge of his misbehaviour in the Euro Bank case?

My third and final point is with respect to the reaction of His Excellency the Governor and the Foreign and Commonwealth Office. I would ask the people of these Islands to carefully consider the contemptuous and arrogant manner in which His Excellency the Governor, on behalf of the UK, has responded to the concerns of the duly Elected Ministers of Government. By their very admission, they are praising both Mr. Gibbs and Mr. Ballantyne as being honourable men of integrity for the role which they played rather than ensuring that they were made to answer for their criminal activities. I suppose like how Mr. Gibbs, similar to the John Ray case, was decorated, there is probably something planned for Mr. Ballantyne. There is no doubt that had the role been reversed the UK would not have tolerated the behaviour of either Mr. Gibbs or Mr. Ballantyne, and it is therefore unreasonable that they should expect us to do so. I feel Madam Speaker, that the Members of this Honourable House are being forced into a situation that could have been avoided, had it not been for the arrogance of Mr. Bal-

lantyne himself, encouraged by His Excellency the Governor and the Foreign and Commonwealth Office.

I, like my colleagues on this side, believe that we will have this matter resolved. It will take time but there must be respect shown on both sides. I trust that the good diplomacy for which the British are known will be demonstrated when Baroness Amos visits the Cayman Islands and that she will make a genuine attempt to resolve this issue. We know that we are an Overseas Territory of the UK, but as the Minister of Community Services put it so well today, even children have their rights. I therefore trust that each Member of this House will join the Government by voting in favour of this Censure Motion, even though, as I said earlier it is a symbolic move. Like one of the previous speakers mentioned, it is the most important Motion that we are debating today.

I ask all of my Honourable colleagues to support this Motion. Thank you.

The Speaker: Does any other Member wish to speak? The Fourth Elected Member for West Bay.

Mr. Cline A. Glidden, Jr: Thank you Madam Speaker. I too have a few brief comments to give on this timely Motion of no confidence in the Attorney General.

The last few days have been an emotional rollercoaster. The headline in today's newspaper reads, "Stop Politicking says PPM". I hoped we would come here to have a nice, short debate on an issue where there was unanimous support for the position of the Government. Then this morning, after the Motion was introduced by the Leader of Government Business and the Opposition started with the political barrage and all of the venomous attacks on the Leader of Government Business, I was a bit worried as to whether there would be unanimous support because for a while it appeared that the Opposition were defence lawyers for the Attorney General. I am happy to see that after all is said and done and we get down to the late hour of the evening, the Opposition, under its interim Leader, was able to calm the waters and seemingly come to some acceptable outcome. I think that is the ultimate responsibility for all of us as elected representatives.

I think that for us, the elected representatives for the good people of the Cayman Islands, it is imperative we join together when the Cayman Islands is under attack. Madam Speaker, I think that this is a very good example of being under attack. We had some criticism as to the Leader of Government Business' position that this was a cold war, but if you would allow me to quote from the 31st January 2003 issue of the publication *Offshore Alert*—

The Speaker: Please proceed.

Mr. Cline A. Glidden, Jr: It says, "Cayman's much wanted reputation for bank secrecy is in tatters after revelations that the Island's senior anti-money laundering officer has been selling secrets to British intelligence since 1990. While Cayman was being promoted as a financial centre where it was a criminal offence to reveal confidential information, Brian Gibbs was passing on virtually everything that came across his desk. The activity, which was carried out with the knowledge and approval of successive Governors and Attorney Generals, but kept hidden from locally elected Government Ministers, was supported by unregulated wire tapping offshore, Alert can disclose. Certificates authorising the monitoring and recording of telephone conversations and faxes to and from Cayman were issued by the British appointed Governor upon the request of the person selling the secrets, Brian Gibbs, director of Cayman's financial Reporting Unit and head of its predecessors completely bypassing the local court system.

"The wire tapping was carried out using a switching mechanism established by British based conglomerate, Cable and Wireless, which has a monopoly in Cayman and provides services in several British Overseas Territories, allowing telecommunications to be monitored in the UK."

Madam Speaker, I am not sure how surprised other people are with that insight into what has been happening here in our beloved Cayman Islands. As other speakers said earlier, there is an awareness of clandestine operations that are carried out in the Territories, and people have been telling us for quite some time that these sort of operations were being carried out in Cayman. When it actually comes to a head, I think it is wake-up call for all of us as elected representatives.

On another note, I hope that through the Minister of Telecommunications in his legislation, the Information Communications, Telecommunications Act, we revisit the provisions that are made in response to the information that shows how easy it appears and what abuse is being used in regards to wire tapping information.

Madam Speaker, these are very difficult times for all of us as Elected Members, and when we are expected to lead the country they call for many sleepless nights. We anticipate they will continue for a while because we see more continued trouble on the horizon. However, these are the times as well that, sometimes in the face of adversity, countries unite. Both sides of this Honourable Legislative Assembly can use this as a uniting call and come together to fight the evils that are upon us.

There has been much talk of the way that the Government, under the leadership of the Leader of Government Business, has handled this situation. There has been some criticism as to the concern ex-

pressed by our financial industry, those people who invest here and also in our tourism industry. While that is so, Madam Speaker, no one has given me any indication that they, in any way, blame this Government or the Leader of Government Business for that occurring. On the contrary, people have said to me that they are happy that at such a time when the country is faced with such difficulties they have a Leader and a Government that can act so decisively and try to work within its means to make the best of a bad situation.

While this is a Motion of no confidence in the Attorney General, I also see the Motion as being a Motion of confidence in the Leader of Government Business and the United Democratic Party Government and the way that they have handled such a difficult situation. We could all sit back and criticise and say how things should not have been done, but I still have not yet heard how it could have been done any better. I do think that whatever comes out of this session—even though initially it was called a waste of time—it is clear that the end result for both side will be, as the First Elected Member for George Town said, the same. I think that this Motion, if nothing else, gave the Opposition, or at least some Members of the Opposition, an opportunity to say what their position was when earlier there was a real confusion as to what the position was. In fact, if my memory serves me correct, on Friday I heard the Second Elected Member for George Town comment that the Leader of Government Business is saying that we are at war and that the UK is trying to destroy our financial industry. He said he has never subscribed to that opinion. What he feels is that the United Kingdom, in an effort to better their position in the European Union, may have decided that they might have to make some sacrifices. What is happening now would be considered, I guess, one of those sacrifices to better their position.

Again, maybe it is my lack of understanding, but to me that sounds like our financial centre is under attack. If the UK has decided that sacrifices have to be made, maybe it is better to say that we are not under attack but we are being offered as a sacrificial lamb. However, to me that is one and in the same. Even though some people wondered why the Second Elected Member for George Town spoke first, I think it worked out in everybody's interest that the Leader of the Opposition spoke afterwards and accepted the call to work together because this fight is not over yet and we really do not know what the outcome will be. I personally feel that if we stand together as one common voice and we do not give the impression that we are divided on this important issue, the UK Government and Baroness Amos will take note of the stand taken by the people's representatives.

I too would like to believe Her Majesty's Government is fair and responsible. Once they see how unanimous the support is for the Attorney General to

no longer enjoy the confidence of the Government or the people of the Cayman Islands, they will see how untenable a situation it is and work towards ending it as quickly as possible. I can only hope that with other difficult situations, like the European Union's Savings Directive and the forthcoming Constitutional issue, we may be able to find some common ground to move past those difficulties. Perhaps when the annals of history are written they will see that elected representatives during this very trying period of time had their great difficulties but were willing to put aside the politics and get on with the important business of sailing the good ship Cayman.

I am going to try to cut my comments brief since we are supposedly going to a public meeting, but I do think that it is important when we look at this Motion to again refer to the same copy of the *Offshore Alert* dated 31st January 2003. Again, reading from that it says "It is the second time in seven years that David Ballantyne has been implicated in covert wire tapping in a Caribbean financial centre. In 1996, when he was Attorney General of the Turks and Caicos Islands, prosecutors submitted transcripts of bugged conversations into evidence during the failed prosecution of suspected drug dealer, Smoky Smith, and others. It is also probable that illegal wire tapping led to the home and office of Cayman banker, John Ray, being raided in 1991. Gibbs repeatedly failed to submit evidence showing that he had grounds for the searches and when sued by Ray, in 1998 the UK Privy Council upheld a \$770,000 damages award in favour of Ray, ruling Gibbs had acted maliciously and had employed the process of the Court for an improper purpose. The award was paid by the Government."

Cayman now faces a much larger bill due to the extraordinary nature of the collapse of the Euro Bank trial, possibly as much as \$25 million in fees and damages when the four defendants inevitably win the lawsuits they will undoubtedly file soon.

Madam Speaker, as we can see from all accounts the trouble has really just begun. The Cayman Islands are faced with a really difficult situation. When we talk about the Euro Bank debacle, time will only tell the total cost to our wonderful Cayman Islands. We, as a Government, have tried to go through the process as successfully as we could under our current Constitution, and we have tried to exercise all the abilities that are provided for, including this debate today to remove the Attorney General. This Motion is not necessarily provided for in our Constitution, but we do have the right, as the people's representative in the House of Parliament, to express of our respective positions.

Mention has been made that the Government was hasty. I think it is important to remember that when this started, statements were made and the

Government made its request to the Governor. After being informed at our public meeting that Mr. Ian Henry from the FCO was coming here, even though we had this vote of no confidence at that time we decided to wait to hear what he had to say. We stayed; we listened; he realised that there was no support for the Attorney General; he said that he would go back to the UK and speak to his superiors and try to come to some equitable solution. We explained to him the urgency of having it as quickly as possible because of the irreparable damage that was being done to the Cayman Islands on a daily basis, and he told us that he understood that concern and he would get back to us as quickly as possible but he needed a few days.

Again, the Government did not rush into anything during that period. We waited for a response and it was only last week, after his visit and report back to the Baroness that we got one. He returned with the same position that had initially been reported, the United Kingdom has full confidence in the Attorney General. Now when I first heard that I thought we were on our way to a solution. If here we here in Cayman are saying that we have no confidence in the Attorney General and the UK says they have full confidence in him, the practical solution to that would be for them to return him to the UK and find something for him to do there. However, it appears that they want to push their confidence in him, make us change our minds and force us to keep him here in the Cayman Islands. I feel that that is the height of unreasonableness, and I hope that we are able to get over that situation. I am not even sure if we are all aware of the practicalities of that, but on a daily basis it becomes more complex.

I just heard the Minister responsible for Communications again make the request for the arrest and extradition of Mr. Brian Gibbs, but my understanding is that extradition cases require the direction of the Ministry and the Attorney General himself. The Police are empowered to investigate and arrest, but after the arrest, therein comes another difficulty because the prosecution is left up to the Attorney General and the Attorney General's Chambers. Even if the Police did arrest Brian Gibbs, could we really expect the existing Attorney General to then decide to prosecute him? That seems a bit of a stretch. Sadly, I do not have any confidence, given the existing situation, that if the Police decide to arrest Mr. Brian Gibbs we can expect him to be prosecuted by this current Attorney General.

I think it is important as well that now, in such a short time, we have seen the reason why we need some Constitutional advancement. It does seem a bit ironic to me that when there are calls coming from the other side of the Floor as to revisiting the appointing of the Attorney General and changes we need in the Constitution, only a few short weeks ago that same side of the House was saying that we did not need

any early implementation of the new Constitution. Like my colleague, the Second Elected Member for West Bay, said earlier, they recognise how important the new Constitution is to the country. After all the supposed differences were ironed out and sorted out between the Government and the Opposition in regards to the Constitution, there was only one outstanding issue and that was the implementation timeline.

We, the Government, felt that even though we had to make some compromises and we had to change our position on some of the outstanding issues, we felt that it was more important to get some progress made with the implementation of the Constitution. Like the Second Elected Member for George Town said, leadership requires foresight, it is not about who can scream the loudest. Leadership requires the foresight this Government had before this situation we are now in was known. The Leader of Government Business, the Executive Council, and the United Democratic Party Government went from district to district saying that we needed early implementation. However, Madam Speaker, the lack of foresight on the Opposition's part did not allow them to see the need for the advancement of such an important document to the Cayman Islands, and they could see no further than the 2004 Election. So we went out there, we whipped up people, put them in the streets, got them signing petitions and got them running around with wheelbarrows saying *'Let us not have any Constitutional change until 2004'*. How much more suffering should the people of Cayman have to go through because of a concern by the Opposition that the now Leader of Government Business may be given the title of Chief Minister?

The Elected Member for the district of East End made mention of when the Opposition takes over. Madam Speaker, if that is the type of foresight and leadership we are going to have when or if the Opposition takes over, we really are in for troublesome times. I guess God does do things in mysterious ways, and hopefully the Opposition is now passed the pettiness of not implementing the Constitution and making the country suffer until 2004. It will not solve all of our problems and we will still have to make changes, but it is a start. We need to get beyond the stage where any mention of the Constitution, like was said, attracts the bogeyman and everyone is afraid and there is talk of independence. We are passed that and we agree that we need some changes to the Constitution, but *'Oh, we cannot have them until after the next Election because we may be in power then.'* In the meantime, the Cayman Islands are suffering. While we play around with, *'who is in power?'* and *'when will I be in power?'*

Hopefully today this issue has brought us to a more united position which can only be in the best interest of the Cayman Islands. While it is true that we

are a British Overseas Territory, that in no way means that we cannot stand up for what we feel is right and stand against what we feel is wrong. We are not talking about a change in the relationship with the United Kingdom, we are talking about bringing some understanding and acceptability to the supposed Partnership for Progress. There is no partnership where, basically, the Mother country says this is the way it is or else, regardless of how negatively that may impact or affect the Islands that we so love.

So it is very irresponsible when Members get up and talk about wanting a change and whether or not we are on the road to independence. Again, those thoughts are coming from the Parliamentary Opposition, not from the United Democratic Party Government. To go along with that and hear the cries for cleansing and bloodletting, all of those very harsh and scary statements, I am happy to know that is not how we are finishing off the debate of such an important issue. The talk of bloodletting and independence that emanated from the Parliamentary Opposition was very frightening. I am glad to know that when the interim Leader made his statement, it was not founded in any of that kind of rhetoric. It would be positive for the current interim Leader of the PPM to remain and bring that sort of position forward. I guess the really scary part was the thought of what would happen if the other two Members assumed any sort of leadership.

Imagine what would happen, like the Member for East End said, if they were to assume power and talk of cleansing and bloodletting was actually coming from the Government or Chief Minister of the Cayman Islands. It amazes me when I hear the constant criticisms of the Leader of Government Business, how irresponsible his actions are and how they could sever the relationship between the Cayman Islands and the UK. Then I hear Members on that side of the Floor make those kinds of irresponsible statements. One of my colleagues said it was youthful exuberance, and I can only hope that those Members will learn to be a bit more responsible before they accept any more of a leadership role than they currently have.

It is a bit scary when we also have such different and opposing views coming out when, on one hand, we get the Second Elected Member for George Town criticising the Leader of Government Business for the forceful stand and then another Member getting up and being even more anti-British and bashing more so. However, hopefully we have moved beyond that and everyone has finished venting and we are able to now move forward with the many difficulties that are facing the Cayman Islands.

Madam Speaker, in this time of uncertainty, not only in the Cayman Islands but in the world, I would like to close by referring to a statement made by the Foreign Secretary of the UK, Mr. Jack Straw.

He is explaining the situation in Iraq to the rest of the world when they were making their plea to the United Nations for support. He says, "This is a moment of choice for Saddam and the Iraqi regime, but it also a moment of choice for this institution, the United Nations. The UN's pre-war predecessor, the League of Nations, had the same fine ideals as the UN, but the league failed because it could not create actions from its words, it could not back diplomacy with the credible threat and where necessary the use of force, so small evils went unchecked, tyrants became emboldened then greater evils were unleashed. At each stage good men said wait, the evil is not big enough to challenge. Then before their eyes the evil became too big to challenge. We had slipped slowly down a slope never noticing how far we had gone until it was too late. We owe it to our history as well as to our future not to make the same mistake again."

Madam Speaker, these are difficult times. These are times that test the souls of men. I think we have good leadership in the Cayman Islands, and by what I heard today we may even be getting good Opposition. With good leadership and an Opposition that is willing to work in unison, following when it is necessary or good, hopefully we are headed in the right direction and we will get passed these troubled, uncharted waters together, in the best interest of the Cayman Islands.

Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak? The Third Elected Member for the district of Bodden Town.

Mr. Anthony S. Eden: Thank you, Madam Speaker.

After listening to the youthful exuberance of the Fourth Elected Member for West Bay, I just wanted to make a few comments.

[Laughter]

Mr. Anthony S. Eden: I know the hour is late and there is supposed to be a meeting in West Bay.

Honourable Member of the House: No, we are not having it.

Mr. Anthony S. Eden: Okay, well, I still will not be long.

[Laughter and comments from Honourable Members of the House]

Mr. Anthony S. Eden: Since being involved with Parliament for almost 12 years, I have never seen such a united stand from the people of the Cayman Islands as is the case with regards to the Euro Bank trial. I know the message from both sides of the House has

been portrayed as a united effort, and I stand to give my support to this Motion.

I experienced a couple of things when I was in the Cabinet over 4 years ago on Executive Council. A colleague of mine and I expressed our concern to the then Governor after observations we made of the movements and activities of Mr. Bryan Gibbs. We were assured that there was nothing to worry about. I am very disappointed that our country has now discovered that this was not an accurate portrayal of the actions of that gentleman who has been here even before I came into Parliament in 1992. I continued to have concerns about the gentleman. It is amazing, as the Fourth Elected Member for West Bay said, how the Lord works in mysterious ways. This has been a harsh lesson for us here in Cayman.

Hon. W. McKeever Bush: That is right.

Mr. Anthony S. Eden: Yet I hope that it is one we learn from.

I will give you another incident, Madam Speaker, when a number of private citizens and I visited with a Governor. It was presented to me, literally in undeniable fashion, that wire tapping was going on in this Island. Once again, it was denied that this could never happen but, lo and behold, a few years later we have seen what has happened and it brings these Islands to the brink of major problems if we do not get this resolved. We have no choice but to put these problems behind us.

On a number of occasions I have made comments. I am not British bashing, but if they want to call it that they may. I said that the last Governor that we had here set these Islands back more than more than 10 to 15, maybe as much as 20 years!

[Pounding on desk]

Mr. Anthony S. Eden: He had to know that some of these things were going on. I was criticised because I did not go to the airport to wave to him goodbye. I have no apologies for that, Madam Speaker! We have learned our lesson and I hope we remember.

A number of us were here during the Cuban refugee situation, and history has shown us the kind of support that we would get from Mother, as the Minister for Community Development spoke about. That ran this country over \$5 million or more. I made a comment that if my mother treated me how the UK treated us, I would not be alive today. I got chastised for that, but I did not care. We must realise what we are facing. We must take hold and make sure that what has happened here will never happen again. We must put in place the proper safeguards in the restructuring of the FRU and ensure that we have our Caymanians there dealing with this and, as has been

mentioned, train them as necessary for the post of Attorney General. If and when we get the amendments to the Constitution and this is looked at again, this is something that is good for the people of these Islands.

Let us go forward with a united effort in solving this difficulty ahead of us. The sooner we do it the better. Thank you.

The Speaker: Does any other Member wish to speak?

The Third Elected Member for the district of West Bay.

Capt. A. Eugene Ebanks: Thank you, Madam Speaker.

Without facing the charges of tedious repetition, there is very little I can say that has not already been covered. However, I do want to say that I support this Motion.

The question has come up as to why we are bringing the Motion now that the Attorney General is not on the Island. My question is, why would the Attorney General choose this time to leave the Island?

[Pounding on desk]

Capt. A. Eugene Ebanks: Another question I have is why Brian Gibbs was allowed to leave the Island when there were so many possible charges that could have been brought against him. Madam Speaker, it is time that we stand up for what we feel is the right and proper thing to do. I support the actions the United Democratic Party has taken, and I urge all the listening public and the Opposition to support us in this Motion.

Thank you.

The Speaker: Does any other Member wish to speak?

The Second Elected Member for the district of Cayman Brac and Little Cayman.

[Background talking and laughter]

Mr. Lyndon L. Martin: Thank you, Madam Speaker. It is quite a nice position to be left as a sweeper for the United Democratic Party, but I have every confidence in the world that I have a good goalkeeper behind me in the form of the Leader of Government Business.

Madam Speaker, I deliberately wore my patriotic necktie today, boasting the Cayman Cress, marked with a block of Caymanite to represent the rock from which we come. It is a day to call on patriotism and nationalism; a day in which we as Caymanians, and I speak of all including those on the other side, truly must come together and represent the best

interests of this great nation. I must say that I am pleasantly surprised upon my arrival here today to notice that the Opposition actually was present because they seem to make it their *modus operandi* to avoid Parliament during issues of national importance.

I truly hoped today, like some of my colleagues have already expressed, that we could have come here to debate this very important issue because there is nothing that would draw a country or a group together as much as one common enemy. We all here have one common enemy: one man who has betrayed us, one man who has sold us out as a nation, as a Parliament, as a group of Legislators. I truly hoped that all Legislators could have come and put politics aside; but as the PPM commenced their debate through the Second Elected Member for George Town, I quickly learned that would not be possible as his entire debate was lined with politics.

Madam Speaker, the United Democratic Party, through its Legislators, has made a very high contribution to this debate, and I do not intend to alter that by getting too deep into politics. Although not necessary, the Leader of Government Business does not require anyone to come his defence because he is quite able to defend himself. However, the Second Elected Member for George Town made some attacks that I think need to be addressed.

I am a young legislator, with only two years behind me. I came to this Parliament with no affiliation to any of the existing Leaders, be it the interim Leader of the Opposition or the current Leader of Government Business. Through my first year here, I automatically polarised towards the leadership that I felt was more oriented with my style: one of decisiveness, one of clear leadership, one that set clear policies and strives to achieve them in the form of the existing Leader of Government Business. Now I find myself a Member of his Back Bench.

I find it unbelievable that Legislators can come to this Parliament and criticise the Leader because he has gone public and kept the populous informed all along the way. He has kept the business community informed three times in the span of one week, holding meetings with the National Advisory Council and the Private Sector Consultative Committee. He has been criticised for going public and making statements so that every individual in this country, who will ultimately be affected by the outcome of this situation, was kept up-to-date.

On what grounds could the PPM attempt to criticise the Leader of Government Business and the United Democratic Party? I read from an extract of the Second Elected Member for George Town's speech made earlier today which will be printed in tomorrow's *Cayman Net News*. I congratulate Mr. Desmond Seales and *Cayman Net News* for always having current information. He said, "There comes a point when

those who seek to lead are called to centre stage and required to perform." That is so true. This situation has called the Leader of this country to centre stage and he has certainly performed.

Hon. Members: Hear, hear!

Mr. Lyndon L. Martin: I was a seconder of the Motion, along with the Second Elected Member for West Bay who moved the Motion that resulted in the revocation of two Members' appointments and, ultimately, resulted in the United Democratic Party taking up the reins of the country and placing the existing Leader of Government Business in the position of leadership. If I ever had any doubts about the validity of that Motion, about the need and justification of that change in leadership, it has all now been erased. The existing Leader of Government Business, the Deputy Leader of Government Business, the five Elected Members of the Executive Council and the entire United Democratic Party that is the Legislative Group, the Executive and the general membership have proven that we are more than capable of reigning the country, of giving it clear leadership which is what is needed in times like these.

The Second Elected Member for George Town, in his normal venomous and arrogant manner went on to say that a delegation of Elected Members to travel to the United Kingdom was necessary. He then went on to challenge the Leader of Government Business by asking, 'Does he feel that he is not up to the task?' Madam Speaker, that is an insult to this country! This country has elected the Honourable Leader of Government Business five consecutive times. The people of this country have sent him to this Legislative Assembly and thorough their duly elected representatives, who then elected him and put him into a position of trust and faith, a position of leadership. For him to come and challenge the ability of the Leader of Government Business to properly represent this country is an insult to the people of the Cayman Islands!

Madam Speaker, the Leader of Government Business and the United Democratic Party held our first public meeting here on the steps of the Legislative Assembly, and we continued to meet with the general public and the business community all along the way. The Government took input it received from the populous and acted on it.

Madam Speaker, the last point I want to make with respect to the Leader of the United Democratic Party, the Leader of Government Business, is that for me, as a young Caymanian, he has put the 'man' back in Cayman.

[Laughter and inaudible comments]

Mr. Lyndon L. Martin: The Second Elected Member for George Town went on to say that the relationship between the United Kingdom and the Cayman Islands was one that needed to be of mutual respect. I agree with him for once, but mutual respect means each party having respect for the other. It does not mean that the Cayman Islands should be colonial servants or intellectual slaves. We are individuals able to stand up for what we believe in, for what is right for our country, and in this case we are standing firm and unified as a Party and I am hoping after today unified as a Parliament.

The art of war teaches us that the easiest way to defeat an enemy is to defeat him from within. When the Second Elected Member for the district of George Town got up to speak, as was commented on by one of my colleagues, he almost sounded like a defence lawyer for the Honourable Attorney General. The thought came to my mind: Are we being destroyed from within? Are we being divided in an effort to be conquered? I hope that is not the case.

It is my obligation to express why I support the loss of confidence Motion. Madam Speaker, the Cayman Islands is a leading financial centre, and as outlined during the opening remarks by the Leader of Government Business, we are a leader of efforts to counteract the use of our centre as a money laundering destination. An important part of that effort was the creation of the FRU as a result of a call from the Egmont Group. With your permission, Madam Speaker, I would like to read the *Hansard* from 2nd April, 2001, in which the FRU is defined by the Honourable Attorney General during Finance Committee.

The Speaker: Please proceed.

Mr. Lyndon L. Martin: Again, the 2nd April 2001, at page [300] of the 2001 *Official Hansard Report*, "(a) **The Financial Reporting Unit (FRU) is a multi-disciplinary free-standing financial investigation unit accountable to the Attorney-General for disclosure of suspicious activity reports and assistance with money laundering prosecutions. The Police Officers report to the Commissioner of Police for administrative and disciplinary purposes.** "(b) **The FRU began in 1989 with the name of Drug Profit Confiscation Unit to receive disclosures under the Misuse of Drugs Law. With the enactment of the Proceeds of Criminal Conduct Law in 1996, the FRU became the reception point for all disclosures of suspicious transactions.**"

Madam Speaker, I read that definition because it will bear weight on a further argument that I will put forward.

The FRU is a necessary entity, and under the proceeds of Criminal Conduct Bill, section 21(1) there is a financial reporting authority first, which would be

the reception point for all queries of suspicious activity. That authority would consist of two or more persons appointed by His Excellency the Governor, and up until 27th April 2001, that comprised of the Commissioner of Police, as well as two other Police Officers, one from the Commercial Crime Unit. They then directed any inquiries for further investigation to the RCIP (Royal Cayman Islands Police) Special Financial Reporting Unit. If they then chose to pass on the information of suspicious activity from the Financial Reporting Authority they had to seek the permission of the Attorney General to pass on that information to an international agency or other local agencies.

There was clear and decisive separation of responsibilities and power. However, through efforts of lobbying, that relationship was dramatically changed and the Commissioner of Police made some comments on 10th May 2001, highlighting the impurity of the new relationship. The Financial Reporting Authority became one and the same to that of the investigating unit, which was then removed from the Royal Cayman Islands Police and placed under the Attorney General, who was the check and balance for the sharing of information with outside agencies. One of our great concerns must not only be that international reputation of this jurisdiction is well regulated and well policed, but also we have a responsibility to protect this jurisdiction for the use of the legitimate business.

Offshore finance has a legitimate role to play in international finance, and it is imperative that there is a check and balance to prevent the frivolous sharing of information without justifiable cause. That is why it was an independent body set up to receive the information from who was going to investigate it to an independent body who would approve the sharing of that information, such as the case with the Mutual Legal Assistance Treaty which the Chief Justice has named as the authority that deems whether we should be able to share information with other Law Enforcement Agencies.

In this case, these were all brought together and this was something that was advocated by the Honourable Attorney General. He had to have been knowledgeable of the obvious conflicts of interest because it was pointed out in numerous occasions in this very Parliament. On 10th May 2001, the Commissioner of Police, Mr. Thursfield, told me that until the 27th April 2001 he was a member of the Reporting Authority, appointed by His Excellency. He was accompanied on that Reporting Authority by two other people who were also nominated by His Excellency the Governor: Detective Chief Inspector Brian Gibbs, then head of the FRU; and Detective Chief Inspector Michael Neeham, who was still on Island and former head of Commercial Crime.

On 27th April he stated that within exercise of the powers conferred in him by section 21(2) of the

Proceeds of Criminal Conduct Law (PCCL), he nominated the Reporting Authority to be the Detective Chief Inspector, Brian Gibbs and the persons from time to time seconded to the Financial Reporting Unit. He said that it had only been one and the same thing since 27th April 2001, and that it actually was not one and the same thing. They were different things but one and the same people.

The Commissioner warned us at this time of the impurity of this relationship where the Authority that is to be independent from the Financial Reporting Unit, became one and the same because the same people were appointed to both units. More so, the units were then placed under the Attorney General. He explained that he, as Commissioner of Police, exercises his statutory duty, which is to command superintendents and direction of the Royal Cayman Islands Police, by not doing it; the Attorney General does. That was pointed out earlier by the Leader of Government Business, where the Police Law gives that power only to the Commissioner of Police. However, it was removed from under him and put under the Attorney General as a result of the Attorney General advocating for this relationship. The reason for that request is becoming more and more apparent.

Madam Speaker, I find it very interesting to look back on these *Hansards* because they also show that in these days where we have great confidence in our judicial system, Finance Committee and questions in Parliaments are effective tools for the revelation of such activities. Much of what we are talking about here today came to light in these *Hansards*.

The Commissioner of Police continued to explain that, in his view, the Attorney General made the FRU accountable to himself and apparently upon reading his account to the House, to the Governor. He felt that the Police Law which he read at the time made the Commissioner of Police accountable for the FRU. He found the position unsatisfactory because he saw it as a responsibility, accountability and liability over something which he had no control.

So, Members of the Legislative Assembly and Madam Speaker, we have much evidence presented before us that it was desirable of the Attorney General to have full and complete control and accountability of the FRU. He got what he wanted and now he must suffer the consequences. The FRU, under his control and accountability, sold this country out and the findings of fact leave no doubt of speculation which is quite clear from the role played by the FRU through Detective Chief Inspector Brian Gibbs. He asked, pressured, persuaded and convinced that he must be accountable. Now we must hold him accountable!

The Attorney General knew of the London Plan as stated in the findings of fact. He was aware of the relationship between the head of the FRU and the secret intelligence agencies in the United Kingdom as

stated in the findings of fact. He did not reveal that relationship to his colleagues so how can we have confidence in the Honourable Attorney General, Mr. David Ballantyne? He is accountable for the action of the prosecution and the investigating unit, which were both part and parcel to causing the trial of Euro Bank to collapse. We now must pay the consequences and the bill; he must also pay the consequences of his action. For that reason I feel comfortable in coming to this Legislative Assembly here today and supporting the Motion brought by the Leader of Government Business for an expression of loss of confidence in the Attorney General.

In addition, this Motion does a lot more than express no confidence in the Attorney General; this Motion clearly states that we, those who support the Motion, are expressing our confidence in the Government's action to date in regards to this case. We are stating that we express our confidence in their request for the resignation of the Attorney General.

Madam Speaker, as the night is growing late I will draw my comments short as I always tend to do in the Legislative Assembly. I only end by asking all Honourable Members of the Legislative Assembly to unite in this effort. Send one loud, unquestionable message that it is not the Leader of Government Business who is asking for the resignation of the Attorney General, it is not the Elected Members of the Executive Council asking for his resignation. It is the entire Parliament of the Cayman Islands, and as we will soon see a significant portion of the populous as will be expressed through their petition.

Madam Speaker, with those words said, I resume my seat. Thank you.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Last call. Does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

Hon. W. McKeeva Bush: Thank you very much, Madam Speaker.

I wish to thank my colleagues for their input into this debate. My colleagues have done a sterling job in defending the Government. The United Democratic Party in this House, although I did not doubt it before, has proven to me that we are capable of handling any situation collectively. We in the United Democratic Party are big enough to take criticism and gracious enough to see the good in any opponents.

Madam Speaker, we have capable people on our side, every one of them. Some have served longer than others, some have gone to university and are professionals in their own right, and some of us have not had that privilege. I want to thank them from the bottom of my heart and to indeed thank this House and those who are genuine in their stalwart contribu-

tion. That includes some of those on the Opposition. I very much appreciate the contributions from the Member for East End and the Third Elected Member for Bodden Town.

Madam Speaker, when I came here this morning I did not know what to expect, but I am somewhat glad, happy indeed, that we have reached at least some semblance of unanimity on this issue.

I expected nothing less from the Second Elected Member for George Town, and in particular, the hatred with which he began. I did not think I was shouting, and I can only believe that it was because I was so well informed, and perhaps somewhat eloquent that he is so upset and has stayed out of the House all day. Also, maybe he is so upset because that Member must now vote with the Government, which he swore he would never do. I have never heard such invective. I am not surprised by his ungraciousness, like the young school boy that fires a blow and then runs, a big coward who cannot sit among his peers who he criticises and take the rebuttals, he has to run outside and sulk. In all seriousness, I say to him, this House, to his partners and this country: if he does not stop his bitterness and his hatred, he will someday cause this country severe and irreparable damage. Hatred is going to eat his soul and I ask him to take a different path. I have no care to follow his bitterness, although there are areas that I will have to reply.

Madam Speaker, I listened to the debate of my friend, the interim Leader of the Opposition, and I did make a note of what he said, that they did not want to see everyone playing hardball but told them that it was possible. He did say that he sees what we are now saying, but do not tell me that they did not know before today what we had said because we said so all along. We have not changed our position any.

I do not believe that the interim Leader could be as vindictive and destructive in his statements as their lead speaker in this debate. However, he went first and not the Leader, and obviously, he put the Opposition's case. That is why I have to really question whether there is genuineness in this matter. You see, Madam Speaker, the Second Elected Member for George Town, the Opposition's lead speaker, came to this House with a well prepared statement which he read with such venom on behalf of his party. Why must such enormous hate well up in him? Then they expect me to believe that they are genuine.

As to my leadership, let us not forget that they were leading this country for a whole year. The financial industry of this country did not know whether it was coming or going and, in fact, nothing was being accomplished. Take that year-long summer of discontent and compare it with today. The financial industry knows where they stand with the Government, with me and not only the present issues that we face but

also the European Union's Savings Directive. I am not a perfect man. No, there is only one man who was perfect and they crucified him. I do know that I deal as fairly, honestly and as expeditiously as our system allows with the problems faced by this country, and so does the Executive Council that I am a part of, problems which it seems they had a mind block on.

The First Elected Member for George Town, the Interim Leader of the People's Progressive Movement, talked about the present situation as if there was no attempt on our part to resolve this issue. The records will show that we did ask for a quick resolution. I am not going to charge the Back Bench of the Opposition with anything, but I am going to charge the leadership on the Front Bench. I have waited to hear from the Opposition as to what their solution to this problem would be. How would they have gotten the Governor to resolve the situation any quicker than we are trying to do? Did they tell us this? No, they did not.

As I listened today, what I always knew from the day they put out their first statement was confirmed. The Opposition had no solutions to the problems. When they offered their lead speaker in this debate, the Second Elected Member for George Town who had no solution to offer, I knew, as I always did, the Government would have to find the solutions with the Foreign and Commonwealth Office in this matter.

Madam Speaker, I did not come into Government expecting anybody to do my work for me. I believe that if there is a matter, we must face it squarely. If it is black we must say it is black; if it is white we must say it is white. There is talk about a breakdown and about how I handled situations. I have no apology because this is my country, and as at least two of the Opposition have said this is where our people stay. This is where we belong and for far too long we rolled over and got kicked in the face every time. We have done no wrong; the Cayman Islands have done no wrong; the United Democratic Party has done no wrong, but the wrong that I see the Opposition Front Bench making is that they are not leading. However, I say here this evening that there is no breakdown.

In 2001 when I headed the delegation to the Chief Minister's meeting in London, I invited the Baroness to come to this country saying that this year, 2003, would be a good time. I did ask her to come before but she did not think so. Again, last year at that same meeting, I extended that invitation and I knew that the Foreign and Commonwealth Office were planning a visit here. This particular situation is not bringing the Baroness to the Cayman Islands; she had plans to come.

There has been this rhetoric about the United Kingdom/Cayman Islands' relations. The Member, who chooses to sit in the coffee room rather than in this Chamber where he is paid to be, went off talking about how we do not know how to handle international

relations, what bad leadership I have given and why I have not gone to London for talks. Madam Speaker, I did not need to go to London, I knew that she was coming here. I know that all of us could not go, and why should I pick up at that time when the whole situation was getting deeper and deeper and embroiled in more controversy? I had to go to New York for an annual meeting and I had to cut that short. The day that I should have been there I had to be back here. I could not. I never ran from my responsibility.

There is no breakdown of this rhetoric by the Opposition's Front Bench about the UK/Cayman Islands relations, which is their only tactic in this. In spite of the Euro Bank issue, our relations with the Baroness and the Foreign and Commonwealth Office are still good. They have their opinions, we have ours, this is our country, they have committed wrong; and I am not going to make her believe that the Foreign and Commonwealth Office is not responsible and we must say that in the strongest terms possible. We have held public meetings, of course, because they have told us to be transparent, they want us to be accountable. Well, this is accountability. This is transparency. So the Baroness and us, myself in particular because I know her personally, are all on good terms. She can call me on my cell phone, and she does that when she thinks she needs to. However, my first and foremost interest is the Cayman Islands, and that is the interest of this Executive Council. So there is no breakdown.

We have just concluded some large issues with regard to borrowing guidelines with the Foreign and Commonwealth Office, and I have played a major role in that with the Financial Secretary and other Members of Executive Council. We have just completed agreements on the borrowing guidelines, and I think the First Elected Member for George Town might just remember a little bit about that. The United Kingdom, through the Foreign and Commonwealth Office, has just agreed with us on a \$163 million bond issue and we have negotiated through all the tangles. Two economists have just completed their visit to look at our budgetary and other economical issues. There was no shouting match, there was no breakdown.

We are dealing with two issues, first, the Euro Bank issue. We know there is a difference in our opinion and we know that the United Kingdom is going to run and hide because they are at fault. Sure they want us to be quiet, but they must be accountable and it must be transparent. We are also dealing with the European Tax Savings Initiative, something that I have said before that the First Elected Member for George Town did not do his part in, as well as the last Leader of Government Business before him. I have had to deal with it, but I have had the backing of an Executive Council and the financial sector, and I believe that we are right! Why should we roll over and say, *'Do it again'*? It is time that we stand up and we

will solve these issues together. I have confidence in our Executive Council, I have confidence in our Back Bench and I have confidence in our Official Members. I have every confidence in our Christian Financial Secretary, who will stand up with us. I thank God that we have had them at this time, not to say that we have not have differences but we have strong support from our Official Members. I believe that if this vote is put to one of conscience, they will cast their ballots with us because they have told the Foreign and Commonwealth Office so in our presence. So, do not believe that there is such a breakdown that the Cayman Islands are just blowing up into pieces. The only thing that is happening here is that we had the lead speaker, who put the case for the Opposition, run and hide.

They are saying that we should put together a small number of delegates and sit with the Second Official Member, Mr. David Ballantyne, and the Baroness to conduct an inquiry. Madam Speaker, he and I would dare say both of them already know that when my friend, Baroness Amos, comes here to these Islands she will talk with us. They know that; they have had their secret meetings with the Governor. She will talk with them and they know that too because of their secret meetings with the Governor. Indeed, I have already told the Governor that we want her to meet with the National Advisory Council, the Private Sector Consultative Committee and others. We will try to ensure that this happens, but we have no guarantee. I hope that it will happen. To set up committee with them now, how can the Opposition hope that could be done when their lead speaker has come out so bitterly with so much hostility? How can we trust them when he has been meeting behind our backs with them? Who knows what they planned? Who knows what was concocted between the Governor, the Attorney General and the First and Second Elected Members for George Town? Who knows? Did they come to this country and tell this country what they talked about? Was it not the Second Elected Member for George Town who went on the radio to say that he had a meeting with the Attorney General in his professional capacity, and then came here to so vehemently condemn my leadership? Madam Speaker, is that not some kind of conflict of interest, as a representative? If this was not a defence of that man, then you tell me what it was. Then he said he talked to him in his professional capacity. What does that mean? Does it mean that he got paid to do so? He needs to tell the public.

Madam Speaker, although he has criticised me bitterly, he has not told the truth. Let me address the PPM's complaint that we should have consulted them before making a statement. The fact is, before we could make a statement, and while we were taking legal counsel— and let me add that we have not

moved unless we have taken legal counsel in our actions—the media called me to say they had a statement from the People's Progressive Movement made by Mr. Tibbetts, the First Elected Member for George Town, calling for an inquiry. Their statement in the *Cayman Net News* from Friday, 17th January to Sunday, 19th January 2003 says, "Given the gravity of this matter and its likely cost to tax payers, the People's Progressive Movement calls on the Government to institute a full and independent inquiry into the circumstances and persons responsible for this deeply troubling affair." Of course, Madam Speaker, I am not going to read all of it because as is usual with their statements, it criticises and lambastes me but says nothing about them wanting the Attorney General to go. They have only started to make that call now. They did not say he must go, they said let us have an inquiry and now they say a commission of inquiry. Disingenuously, now they say they find people here, expatriates and Caymanians alike, who say that the Attorney General must go.

Now they say we must inform them, and when we do, they criticise us as was done so bitterly today. Madam Speaker, I have a difficulty trusting people who are so contradictory and who are so immature and disingenuous. Today they say one thing and this afternoon they say something else. You cannot lead like that whether you are the Government or Opposition.

On 15th January, or thereabouts, they made a public statement unbeknownst to us (that one that I read), and they asked me if I plan to make a statement. Well, Madam Speaker, we know that in our statement we said, "It should be obvious to those that have had the time and the opportunity to read the findings of fact released by the Court to the public on 14 January 2003 that the principal persons in charge of the investigation and prosecution bear the responsibility, whether directly or indirectly, for the problems which have occurred. Those persons can no longer enjoy the confidence of our people or the Elected Members of the UDP Government and we look forward to their resignations forthwith."

Now he says that we jumped off on the wrong foot and that is what is causing all of the problems, Madam Speaker, what is so detrimental about that call? We felt immediately that is what should happen if we believe in right and wrong. Had the Attorney General resigned at that time, had the Governor asked him to resign at that time, we would not have this problem. Why should he not resign? He caused the problem. He should have resigned. He put the case forward; he channelled the prosecution team. He knew what went on in London; he was party to it. He knew what Brian Gibbs was doing. If this was anywhere else, he would have had to resign because from the point of view of the Confidential Preserva-

tions Law it is a crime against this country. They knew that, so he should have resigned and the Opposition Front Bench should have joined us at that time and called for his resignation. Instead they went behind closed doors and God only knows what was concocted. I am coming to some other glaring circumstances that do not leave the feeling that all is well.

I was accused publicly, on 17th January 2003, and they said that I did not contact them. "Mr. Tibbetts lamented the failure of the Government to initiate formal discussions with the Parliamentary Opposition on the Euro Bank issue, suggesting that the issue must transcend partisan political consideration." They were saying one thing in the papers and doing something else behind closed doors. That is why they got caught and they have been caught, let us not fool ourselves. When he said that on 20th January, the Monday it came out he well knew that on the 17th January, a Friday afternoon at about 6.30 pm or so, I called the Interim Leader, the First Elected Member for George Town and said, '*Kurt, we need to talk about this matter we are facing*'. He agreed and I said that I would set up a meeting which he agreed to. Lo and behold, on 20th January, three days later, the PPM issued that statement criticising us for not talking to them when all the while we had agreed to a meeting.

How can anybody come now and say that they are genuine and that we must set up some sort of committee with them so that they can get back news from us to the Governor and everybody will know before we know? During all of this they had meetings with the Governor and the Attorney General as I said earlier, and they did not tell us what they were doing, nor what they had agreed. Nor did they tell the public what they were doing or planning in those meetings.

We had the meeting I told the First Elected Member for George Town we would have, and I recall that meeting also right here in this Legislative Assembly. They did not relay to us in that one-hour meeting anything they had discussed with the Foreign and Commonwealth Office's legal advisor, Mr. Ian Henry. For one hour we talked but they had no plan to deal with the issues at hand. They told us, Madam Speaker, then that they would have to go back to their party before they could tell us anything or agree with us. They left the meeting, but not two seconds later they came back to us before we could even move out of that committee room to say that I, as the Leader of Government Business, should set up a meeting for the Governor, Mr. Henry and all Members. I did that immediately, and at that meeting with the Governor the next day, at 12.30 pm, the Opposition did nothing. The Second Elected Member for George Town did nothing but deride me as Leader of Government and follow Mr. Henry's line that we, as a Government,

should not say anything about the matter, which is what is so peculiar about all of this.

I have thought about that on many sleepless nights since all of this began. I have sat up and thought about all that has happened and how the Opposition have been, from step-to-step, taking a path of deception as far as I am concerned. Then they say that I should set up a committee which includes them? If they are genuine it would be nice, but why should there be another committee? The only conclusion I can come to after seeing the path that the Opposition was on is that it would be merely another whitewash and that is all. We do know about the whitewashes and various inquiries that have gone on and gone their way. Have you ever seen one that went our way? Who would appoint this committee? Do they believe that the Governor and the Foreign and Commonwealth Office are going to say that we are going to have a majority? Then they ask for an inquiry? An inquiry! Do they understand the time that this is going to take and all the things that could go on in that time? Who would appoint this commission of inquiry? Who is going to pay for this commission of inquiry? A commission of inquiry has been the tool used to whitewash scandals and wrongs committed on territories such as ours.

While they criticise me over there, I can rest in the feeling that McKeeva knows a little bit because I have been here long enough. I have not just come here, I have been here long enough and I have connections in other territories and I talk to them and I see what happens. We know history! It would shut us up all right because it would be sub judice for this Government to voice our opinion and that is what would happen. It would be a mechanism to shut down the only means we have and that is for us to talk to our people and let them know. So, on my part I am not asking for a commission of inquiry because, firstly, we cannot trust who to appoint and as far as I am concerned it would take too long. Secondly, I do not know the path that the PPM is on.

I do not support a commission of inquiry because of the reason already stated, and the Chief Justice has already laid out the case. You see, Madam Speaker, if there were only accusations and on a technicality the case was thrown out, then there might be room for such a thing, but there are no technicalities here. The evidence is before us; the Chief Justice had it; they tore it up; fixed it; put it in a nice package and even with that thankfully it did not work. So there is no reason to call for that. You call for that commission of inquiry when there is no evidence as to what has happened. We have the evidence. We do not need to have qualified support, and I say that in all honesty and earnestly to you. What we need is to tell the Governor how we all feel together, not get in a room with him and ridicule me and call me all sorts of

things to make it look like I am destroying the Cayman Islands. What we need is support for this because the evidence is there.

Now, when my friend, the Baroness, comes here we will greet her with all graciousness and welcome her as our parents have taught us to do. We will talk with her, we will consult with her, we will say '*Come let us reason together*'. No one need think that we will change our position on the wrongs committed against these Islands. As I said in the opening, on Tuesday when the Baroness called she said that she had not changed her position, she had every confidence in him and she does not intend to change it. Now, hopefully there will be some softening of that, but I have to be honest to the public of this country and to this Honourable House in telling them what was told to us. We will deal with her with the strength of conviction that right must always prevail. We will say to her that he must go.

Although the Opposition says he is not coming back, there again I think they know more than they have said. The Governor told the Executive Council on Tuesday that he was going off on vacation. The statement from the office says a whole different line. They do not know where he is gone, what he is doing, why he is gone and the Opposition says he is not coming back. Now, I must take all this today as being genuine? No. *I did not born this size!*

We will say to the Baroness, the way in which the Attorney General is appointed is not good enough. We must know something about where he comes from, his background, where he last worked and whether he is working with anybody and getting paid on the side. We will say to her it must be ensured that the United Kingdom Government will no longer have two systems where we pay him a salary and he is getting paid by the Secret Intelligence Service Agency to spy on us and carry on clandestine operations to our detriment. We will also say to her that the Financial Reporting Unit must operate differently and legally and we must impress on her that the Financial Reporting Unit needs Caymanian Police and we need them trained for that. We will say to her it needs someone who is the head who will know about the financial industry and how it works. We will say to her that the illegal phone tapings must stop, and if they feel that is necessary for good governance to prevail then a court order must be had. We are going to say that the United Kingdom must pay any and all claims on this case for their setup of it, their mishandling of it and for causing its collapse.

I believe, as many of us have said, the Police and the Legal Department must charge Mr. Gibbs for the crimes committed against this country, and the powers that are responsible must extradite him to these shores to stand trial for those crimes. The Attorney General knew of it, he aided and abetted the Lon-

don Plan which was an illegal plot against the Grand Court of the Cayman Islands and I believe that he must stand the full force of the law in that regard. Now the Second Elected Member for George Town, who has just come back into the Chamber, says, '*You are shouting too much, you do not know what you are doing*' because I talk forcefully. I am no Yes man. I come here to represent my people, and when I have a point to make, I can make it as good as any Presbyterian church minister or as strong as any Baptist backwoods preacher, preaching fire and brimstone. Why would I not when I know I am right and the facts are there for all of us? It is not that the United Kingdom is just going to up and have their way with us, because if that is what anyone believes they are sadly mistaken. Yes, they are the Mother country. Yes, they are the Metropolitan country. Yes, they are a big world power. However, there is one thing I know that they cannot take and that is exposure, transparency and accountability.

The Opposition Front Bench offered other criticisms about diplomacy and international issues, but they ignore the facts. There can be no defence which pardons the action taken by those who carried out the London Plan as it is outlined in the findings of fact by the Honourable Chief Justice. While we struggle to confine our response to diplomatic language, our country and our people have been called just about everything under the sun. Our names and reputations have been tarnished, and for what? It is because we dare to call a spade a spade. The Opposition calls for us to repair damage. He has charged that I cannot handle the matter diplomatically. I am certain, Madam Speaker and Honourable Members, that even the most liberal interpretation of diplomacy does not cover actions such as destroying evidence, presenting lies to the court or spying. Under the cloak of diplomacy, our financial industry has been under attack from within, from persons who were entrusted to have this country's interests at heart.

The Attorney General obviously does not have the same concern for the rule of law as we do, nor for human rights or personal rights, such as the right to a fair trial, or he would not have condoned what he knowingly did. We all know that in crisis people do shout in the dark demanding to know what is happening, but this case is not the same. As I see it, the first duty of Government is to govern and lead, which means never to give in to unreasonable and high-handed treatment as is being meted out to us by the United Kingdom, whether we are an Overseas Territory or not. We are not shouting in the dark, we are not searching for the issue and we are not groping for evidence in the dark. The Chief Justice has given the evidence of the wrongs committed. Our duty is to send a strong message to the United Kingdom Government who has committed this wrong on us. I know

that the First Elected Member for George Town lambasted me about making that statement at a public meeting, but it is a fact.

Our message is simple: when next they send another Attorney General, whether in the short-term or the long-term, we will not tolerate or countenance any interference with the judicial process of this country, nor will we tolerate any tapping of the Chief Justice's phones, or anyone else's, without going through the proper court procedures. No man, woman or country is above the law; that is what this vote of no confidence seeks to demonstrate. The United Kingdom Government must understand that while I am the Leader of Government Business, and the United Democratic Party is the Government, we will expose their wrongful action to the whole world. If I am not the Leader or in the Government and wrongs have been committed, I will expose them still. This is the only instrument or power we have, the harsh exposure of their tampering with the rule of Law. Madam Speaker, I said earlier that it is not about diplomacy. This is about saying nothing, and saying nothing is not diplomacy at this time.

Of the charges of independence and of the playing of hardball, I say to the Opposition: *omnigenussum proterere bellē* which is Latin and translates into things you know nothing about are always *boogies*, or I could say in good Caymanian way, *Duppy know who to frighten*.

I shall always trust the instinct of our people who are a democratic people. I believe that today, whatever differences may exist in these Islands the country is united. Conviction on this matter is biting deep into our country with all its love and respect for the Mother Country that there must be no turning back on our resolution, that the Attorney General must go and that justice must prevail. The whole of our efforts in this field of diplomacy is aimed at bringing agreement to the issue. At the same time, all of our efforts must be devoted to this vexing issue and we are not going to relax our efforts for one moment.

If the two countries, the UK and the Cayman Islands, had parallel interest and a mutual respect which comes from a mature relationship rather than one predicated on blind obedience, it could be that we could trust them and still feel welcome to speak candidly in private and public arenas about our differences of opinion. Surely that cannot be seen as being un-diplomatic, Mr. Second Elected Member for George Town. They have done us a grave injustice. The world should know it because they know it and we know it. Our strength is that we know it and we are prepared to say it to the world, and I believe that acknowledging and addressing this wrong is the path to resuming our historic relations. It is the requisite for negotiations, as far as I am concerned. Instead of the hopelessness, fear and

desperation the People's Progressive Movement and their Front Bench generate, we offer faith and inspiration.

Madam Speaker, the last matter is, as they claim, my lack of understanding of the Constitutional status of the Islands. The converse is true. I have been around long enough to know when somebody realises that I stand in their way. That is why I am pounced upon, criticised and called every name from these legislative halls to the radio where they set up their political operatives. They know that I can deal with them and that their *kiss-kiss, love-love* sometimes does not buy me and that I see their disingenuousness. They know I know their *modus operandi*. I say this in regards to the personal attacks: Second Elected Member for George Town, you are not lily white. Stop it or you are going to be exposed more than you think you can be.

Madam Speaker, I know what our constitutional status is and I said sometime ago that changes should come early. Had those changes been made at the first of this year, we could have been in a better position to deal with this issue. We would not have had all of this; we would have a Constitution that could deal with it. Be that as it may, I know where we stand with the Constitution. I think we will all say to the Baroness that in this Constitutional talk, what is of paramount importance to us is the issue of the Attorney General and our financial sovereignty. No more should people be able to go off to London to set up plans while we pay for it here and have a Governor who will pay for it even when we say, as elected representatives of the people, *do not pay*. There should be no taxation they say without what? Representation? Well, there should be no expenditure unless the people put you in here.

We do have to look at our financial sovereignty above anything else, above any change, any new Minister, anything else, because all that we have here is the financial industry and tourism. When they wipe out one, the other will suffer seriously. So we will continue to work for the right of our people to enjoy a high standard of living, for our children to enjoy a proper education and for our people to enjoy proper medical services and proper homes. With a bright future and the help of this Honourable House, we will overcome all adversities.

Madam Speaker, not all of us are good Christians, we lack and we know that, but one thing we do know is that there is an ever-watching God. I believe that and I have proven it in my life. I also believe that this too shall pass, but in the meantime, we must stand up for what is right.

Madam Speaker, I thank all Members for their contribution. I thank you, Madam Speaker, for sitting so long in the Chair and the staff of this Honourable House for their patience and for being here so long,

but this is an important time. We do have a new Sergeant, and, boy, has he got a new baptism, a serious one, but we know he is up to the challenge.

In closing, I refer to a young Caymanian who was wrongly let go from the Civil Service some years ago. He was not well liked. I cannot hire, but my Permanent Secretary tried to give him a job in a department of government. The young Caymanian wrote a letter, as a private citizen, publicly criticising the actions of past politicians. His results from his test, from what I understand, were number one; he was the best man for the job. It pains me deeply today to know what happened to him, not because someone else got the job because that person was equally capable. The individual I am talking about was top, the best man for the job, and it hurts that they would not hire him because he wrote a letter as a private citizen against past politicians, not even Members of the House today. Look at that situation. Do you have any qualms about sitting here and saying Aye to this Motion or ever thinking that we are on the wrong track?

Madam Speaker, I know this House will do what is right. I thank you, Madam Speaker, and I thank them.

The Speaker: The question is that this Honourable House expresses its loss of confidence in Mr. David Ballantyne, Government's Principal Legal Advisor/Attorney-General/Second Official Member of the Legislative Assembly and of the Executive Council. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it. Accordingly, Government Motion No. 11/02 is hereby passed.

Agreed: Government Motion No. 11/02 passed unanimously.

ADJOURNMENT

The Speaker: I now call on the Honourable Leader of Government Business for the adjournment.

Hon. W. McKeever Bush: Madam Speaker, it has been a long day and, again, I thank all my colleagues on both sides for being here to give unanimity to this Motion.

The House intends to meet on Cayman Brac for the Throne Speech on 7th March, and once the Throne Speech is completed the House will resume the following Wednesday, here in Grand Cayman. I believe that is an historic occasion also, but I thought I would give notice to Members here that that is the intention. There are major ongoing repairs here and

so the House will not meet Friday, but we will meet on 7th March on Cayman Brac.

Also I take this opportunity to remind Members of the National Annual Prayer Breakfast on Thursday morning at the Hyatt Hotel, and that is Thursday, 13th February at 7.30 am.

Madam Speaker, I move the adjournment of this Honourable House until a date is announced.

The Speaker: The question is that this Honourable House do now adjourn until a date that is announced. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 9.45 pm the House adjourned until a date to be announced.